DOCUMENT RESUME

ED 372 737 IR 016 676

TITLE	An Expenditure Review of the Mississippi Authority for Educational Television and Related Foundations. Report to the Mississippi Legislature #300.
INSTITUTION	Mississippi State Legislature, Jackson. Performance Evaluation and Expenditure Review Committee.
PUB DATE	21 Jul 93
NOTE	131p.
PUB TYPE	Legal/Legislative/Regulatory Materials (090)
EDRS PRICE	MF01/PC06 Plus Postage.
DESCRIPTORS	Administration; Broadcast Television; Cost Effectiveness; Educational Finance; *Educational Television; *Expenditures; Financial Support; Information Networks; Philanthropic Foundations; Policy Formation; Private Financial Support; Problems; Program Evaluation; Programming (Broadcast); Public Agencies; *Public Television; State Legislation; *State Programs
IDENTIFIERS	*Mississippi

ABSTRACT

The Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER) Committee of the Mississippi Legislature is authorized to review any public entity at the request of the legislature. In response to numerous allegations by agency employees and citizens and to anonymous complaints, the PEER Committee reviewed the Mississippi Authority for Educational Television (MAET) and the Foundation for Public Broadcasting in Mississippi (Foundation) and the Mississippians for Educational Broadcasting (MEB). Through its review of expenditures, PEER determined that the MAET Board compromised fulfilling its statutory responsibilities by relying exclusively on MAET managers to formulate policy without appropriate review and control. The MAET Board did not effectively supervise and control MAET's relationship with the Foundation, allowing MAET's executive management uncontrolled use of Foundation funds for questionable purposes and MAET administrative costs instead of for programming, as had been represented to donors. Twenty-four exhibits illustrate aspects of the expenditure review. Appendixes present the history of the Mississippi EdNet Institute and proposed legislation regarding appointment of board members. (SLD)

Report To

#300

The Mississippi Legislature

An Expenditure Review of the Mississippi Authority for Educational Television and Related Foundations

July 21, 1993

The Mississippi Authority for Educational Television (MAET) relied excessively on MAET executive managers to formulate and implement policy without appropriate review and control. As a result, MAET managers:

- without board oversight, determined agency mission and planning, and directed expenditures for production projects, contractual services, and capital assets;
- expended $857,590 for questionable or uneconomical purposes, including $347,165 in state funds and $510,425 in Foundation funds;
- used $42,941 in MAET funds to employ a public relations consultant who actually worked in the Governor's Office; and,
- spent MAET and Foundation funds for Mississippi EdNet Institute, Inc., without oversight of either board.

MAET's former Executive Director, A. J. Jaeger, violated state law by working on Foundation-related activities during MAET working hours. As a result, MAET should not have paid Jaeger $3,208 in state funds for work performed on behalf of the Foundation during MAET working hours.

The PEER Committee

PEER: The Mississippi Legislature's Oversight Agency

The Mississippi Legislature created the Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER Committee) by statute in 1973. A standing joint committee, the PEER Committee is composed of five members of the House of Representatives appointed by the Speaker and five members of the Senate appointed by the Lieutenant Governor. Appointments are made for four-year terms with one Senator and one Representative appointed from each of the U. S. Congressional Districts. Committee officers are elected by the membership with officers alternating annually between the two houses. All Committee actions by statute require a majority vote of three Representatives and three Senators voting in the affirmative.

Mississippi's constitution gives the Legislature broad power to conduct examinations and investigations, PEER is authorized by law to review any public entity, including contractors supported in whole or in part by public funds, and to address any issues which may require legislative action. PEER has statutory access to all state and local records and has subpoena power to compel testimony or the production of documents.

PEER provides a variety of services to the Legislature, including program evaluations, economy and efficiency reviews, financial audits, limited scope evaluations, fiscal notes, special investigations, briefings to individual legislators, testimony, and other governmental research and assistance. The Committee identifies inefficiency or ineffectiveness or a failure to accomplish legislative objectives, and makes recommendations for redefinition, redirection, redistribution and/or restructuring of Mississippi government. As directed by and subject to the prior approval of the PEER Committee, the Committee's professional staff executes audit and evaluation projects obtaining information and developing options for consideration by the Committee. The PEER Committee releases reports to the Legislature, Governor, Lieutenant Governor, and the agency examined.

The Committee assigns top priority to written requests from individual legislators and legislative committees. The Committee also considers PEER staff proposals and written requests from state officials and others.

An Expenditure Review of the Mississippi Authority for Educational Television and Related Foundations

July 21, 1993

The PEER Committee

Mississippi Legislature

The Mississippi Legislature
Joint Committee on Performance Evaluation and Expenditure Review
PEER Committee

SENATORS
TRAVIS L. LITTLE
Vice Chairman
WILLIAM W. CANON
Secretary
JIM BEAN
WILLIE SIMMONS
JOSEPH STOGNER

TELEPHONE:
(601) 359-1226

FAX:
(601) 359-1420

P. O. Box 1204
Jackson, Mississippi 39215-1204

JOHN W. TURCOTTE
Director

REPRESENTATIVES
CECIL McCRORY
Chairman
ALYCE G. CLARKE
J. P. COMPRETTA
DAVID M. HALBROOK
MORRIS LEE SCOTT

OFFICES:
Professional Building
222 North President Street
Jackson, Mississippi 39201

July 21, 1993

Honorable Kirk Fordice, Governor
Honorable Eddie Briggs, Lieutenant Governor
Honorable Tim Ford, Speaker of the House
Members of the Mississippi State Legislature

At its meeting of July 21, 1993, the PEER Committee authorized release of the report entitled **An Expenditure Review of the Mississippi Authority for Educational Television and Related Foundations.**

Cecil McCrory

Representative Cecil McCrory, Chairman

This report does not recommend increased funding or additional staff.

Table of Contents

Table of Contents (continued)

7

List of Exhibits

An Expenditure Review of the Mississippi Authority for Educational Television and Related Foundations

Executive Summary

July 21, 1993

Introduction

In response to numerous allegations by agency employees, private citizens, and anonymous complainants, the PEER Committee authorized an expenditure review of the Mississippi Authority for Educational Television (MAET) and the related Foundation for Public Broadcasting in Mississippi, Inc. (Foundation), and the Mississippians for Educational Broadcasting (MEB).

PEER reviewed the private foundations because complainants alleged that MAET executive management had mismanaged Foundation funds. During the review, PEER received the full cooperation of the Foundation and MEB, as well as the MAET Board. PEER acknowledges the foundations' assistance in providing detailed financial information when requested during the course of the review.

Overview

In its review of expenditures of the Mississippi Authority for Educational Television, PEER determined that the MAET Board compromised fulfillment of its statutory responsibilities by relying extensively on MAET managers to formulate policy without appropriate review and control. The board allowed its executive management to supervise and control agency operations without proper oversight in the areas of agency mission and planning, compliance with copyright laws, and expenditure of agency resources for production projects, contractual services and capital expenditures. For instance, MAET managers:

- changed the funding emphasis for agency programs without board approval;
- failed to adhere to production budgets, resulting in significant cost overruns on those productions;
- violated restrictive provisions in agency appropriations by using agency funds for a contractor to provide public relations services to the former Governor's Office; and,
- failed to plan and manage the acquisition and installation of television equipment purchased with bonds authorized by the 1990 Legislature.

The MAET Board did not effectively supervise and control MAET's relationship with the Foundation for Public Broadcasting in Mississippi, allowing MAET's executive management uncontrolled use of Foundation funds for questionable purposes and MAET administrative costs, instead of for programming as represented to donors.

The MAET Board also did not effectively supervise and control MAET's relationship with and expenditures for EdNet (a joint venture between educational agencies).

MAET's former Executive Director violated MISS. CODE ANN. Section 25-1-98 by working on and receiving private pay for Foundation-related activities during MAET working hours. In addition, MAET should not have paid Jaeger $3,208 in state funds for work performed for the Foundation.

Background

MAET's Purpose and Functions

MAET's enabling legislation, MISS. CODE ANN. Section 37-63-1 (1972), states that the purpose of MAET is to develop and establish a "television and radio system which shall provide educational and instructional, professional growth, and public service programs for the students and citizens of Mississippi."

MAET's Relationship to Non-Profit Foundations

In order to complete an expenditure review of MAET, PEER found it necessary to review certain

expenditures of the Foundation for Public Broadcasting. While the Foundation is not a state agency, and is a not-for-profit corporation chartered under the laws of the state of Mississippi, it has historically had close ties to MAET.

PEER also reviewed selected aspects of two other Foundation-related non-profit agencies. The Foundation annually provides the sole support for Mississippians for Educational Broadcasting, a volunteer agency, and also has incurred expenditures on behalf of Mississippi EdNet Institute, formed to develop an Instructional Television Fixed Service in the state.

Foundation for Public Broadcasting in Mississippi, Inc.

In 1986 MAET created the Foundation for Public Broadcasting in Mississippi (Foundation), a not-for-profit corporation. The organization's charter states that the Foundation, through financial support, shall promote, aid, and advance educational and public broadcasting, public telecommunications in general, and the objectives of MAET to provide educational and public broadcasting to Mississippians.

Mississippians For Educational Broadcasting, Inc.

MEB oversees a statewide network of volunteers who organize promotional events and in some cases make legislative contacts in support of educational broadcasting in Mississippi.

Mississippi EdNet Institute, Inc.

MISS. CODE ANN. Section 37-63-9 provides that MAET will seek to develop an ITFS (Instructional Television Fixed Service) system as a viable component of the state's educational telecommunications system. On July 24, 1990, MAET, the Institutions of Higher Learning, the State Board of Education, and the State Board for Community and Junior Colleges created Mississippi EdNet Institute, Inc. (EdNet), a not-for-profit corporation organized to oversee the development of ITFS in the state.

Findings

Board-Agency Relationship (page 25)

During fiscal years 1989 through 1993, the Mississippi Authority for Educational Television compromised fulfillment of its statutory responsibilities by relying extensively on MAET managers to formulate policy without appropriate review and control.

MAET management has controlled many areas of operations without board input and kept critical decisionmaking information from the MAET Board and the Foundation Board.

Every four years, four of seven MAET Board members are newly appointed to the MAET Board by the incoming governor. Because over one-half of the institutional memory of the board is wiped out every four years, the board's ability to oversee the agency is diminished.

As a result of the lack of oversight of the board, MAET made decisions which were detrimental to the accountability of agency operations as well as Foundation funds. Exhibit A, page ix, summarizes uneconomical expenditures or questioned cost items which PEER discusses throughout this report and which are outlined in the findings below.

Supervision and Control of Agency Operations (page 27)

- ***The MAET Board allowed its executive management to supervise and control agency operations without proper oversight of agency mission and planning, expenditure of agency resources, and compliance with applicable laws.***

Agency Mission and Planning

— *As of June 1993, the MAET Board had not developed a long-term strategic plan to direct MAET and Foundation resources toward fulfilling the agency's mission for educational and public broadcasting in the state.*

The agency has been working since the autumn of 1992 to devise divisional mission statements, has initiated a network utilization study to determine

Exhibit A
Summary of Uneconomical Expenditures or Questioned Cost Items

	MAET	*Foundation*	*Total*
Contract with speech writer in violation of Appropriation restrictions	$42,941		$42,941
Digital video recorders purchased by Jaeger against the advice of MAET technicians	$172,437		$172,437
Reinstallation of MAET studio wall	$715		$715
Costs to repair PRM flooring caused by poor management decision-making	$3,666		$3,666
Rental costs of delaying relocation of PRM (a)	$28,344		$28,344
Write-off of missing MAET equipment	$24,885		$24,885
Unauthorized tape duplication	$317		$317
Compensation to A. J. Jaeger for Foundation work on MAET time	$3,208		$3,208
MAET's payment of EdNet expenditures on behalf of other EdNet agencies	$19,960		$19,960
Production project cost overruns			
"Return to the River" (b)	$22,498	$115,382	$137,880
"You've Got That Right"	$28,194		$28,194
MAET employee perquisites		$49,948	$49,948
Missing or unidentifiable commodities purchases		$3,460	$3,460
Expenditures for EdNet		$139,999	$139,999
Consulting contracts lacking written agreements and board approval		$201,636	$201,636
Total	$347,165	$510,425	$857,590

(a) Public Radio in Mississippi
(b) $104,092 in MAET equipment time is not included because it does not represent full out-of-pocket costs but represents the cost of renting that equipment in the marketplace.

SOURCE: Organization records

how teachers can best use the network, and has made efforts to devise divisional and agency objectives. However, the agency's mission statements are not complete, and the objectives are not measurable and do not provide the agency with meaningful indicators of agency performance.

— *During the past three fiscal years, MAET managers have changed the funding emphasis and decreased instructional spending without obtaining the board's input or approval.*

During the period FY 1990 to FY 1992, MAET reduced overall funding of general and special funds to instructional television programs in the Distance Learning Division (which serves schools directly) while increasing funds to the Production and Public Radio divisions, which have traditionally focused more on adult and entertainment programming.

Because the board was not informed of changes in funding emphasis, the board could not oversee the agency's shift in emphasis. MAET management did not present the change in position to the board, because they presented financial statements and budgets to the board which did not show the changes in divisional budgets from year to year.

Expenditure of Agency Resources

Project Budgeting

— *For two agency productions, "Return to the River" and "You've Got That Right," MAET managers varied from agency practice and failed to establish and/or adhere to production budgets, resulting in excess costs of $270,166 on those productions.*

MAET production managers set budgets for projects at the beginning of each fiscal year for projects to be funded with MAET funds and for those to be funded with Foundation funds. MAET executive management failed to follow proper budgeting procedures due in large part to the former Executive Director A. J. Jaeger's direct control over "Return to the River" and due to poor planning for "You've Got That Right." As a result "Return to the River" exceeded its original budget by $241,972, including direct costs overruns of $115,382 and in-kind services of $126,590. "You've Got That Right" exceeded its budget with direct cost overruns of $28,194, for total excess costs on the two productions of $270,166.

Contractual Services

— *MAET managers do not utilize a formal needs assessment process to determine whether to employ consultants, nor has the agency implemented a formal contract monitoring system.*

As of May 1, 1993, neither MAET nor the Foundation utilized formal needs assessment procedures to determine whether to employ consultants, although MAET entered into 111 personal service contracts during fiscal years 1988 through 1992. At the time of PEER's review, MAET management did not apprise the MAET Board of the agency's use of consultants.

— *MAET's former Executive Director, A. J. Jaeger, violated specific restrictive provisions contained in the agency's FY 1991 and FY 1992 appropriations by utilizing $42,941 of agency funds for a personal services contract with John Sewell, who provided public relations services for Governor Ray Mabus's office. Further, MAET managers violated MISS. CODE ANN. Section 25-9-107 (c) (x) by renewing the Sewell contract prior to the State Personnel Director's approval of the renewal.*

MAET's expenditures for a personal services contract with John Sewell violated specific language in the agency's FY 1991 and FY 1992 appropriation bills which prohibited the expenditure of MAET funds for public relations services for another state agency, department or officer. Sewell wrote speeches for Governor Mabus on behalf of the Governor's Office and not as a liaison with MAET. Former Governor Mabus knew or should have known that MAET's expenditure of funds for a public relations contractor for exclusive use of the Governor's Office violated MAET's appropriation bills.

Capital Expenditures

— *MAET failed to plan and manage both the acquisition and installation of television equipment purchased from $2.4 million of bond proceeds authorized during the 1990 legislative session and the relocation of the agency's radio studio.*

Acquisition of Equipment with $2.4 Million Bond Issue--To assist MAET in upgrading its broadcast

and studio equipment, the Mississippi Legislature approved a $2.4 million general obligation bond issue for equipment during the 1990 session. PEER identified equipment items with a cost of $307,428 that have not been placed in service.

Construction of the MAET Studio—MAET did not begin to plan for the installation of equipment until the summer of 1991 when the original plan, known as Plan 1, was developed. In the summer of 1992, Jaeger changed the plan, which caused major changes in the size of the studio and the location of the post-audio facility.

Public Radio of Mississippi Studio Relocation—MAET personnel directly involved in the planning of the move of Public Radio of Mississippi studios into MAET offices told PEER that were it not for management's indecision and errors, the move could have been made in four months and that if the original MAET staff plan could have been used, the move could have been made in March 1992 rather than March 1993. This would have saved the agency approximately $28,344 in rent.

— *MAET management does not adequately control and account for the agency's equipment inventory.*

The Office of the State Auditor in May and June 1992 could not locate thirty-six items with a total cost of $24,885. Officials with the Office of the State Auditor stated that such a large write-off of equipment is significant in relation to other Mississippi state agencies.

PEER found deficiencies in MAET's system of inventory control. Because MAET's equipment ($16.7 million) represents 83% of its assets, the agency's risk of loss due to poor internal control is significant.

Compliance with Federal Law

— *During fiscal years 1990 to 1992, the former MAET Executive Director duplicated and distributed at least 196 programs and tapes without permission from copyright holders, in violation of federal laws.*

MAET's former Executive Director abused federal copyright laws by requesting taped PBS programs from the agency's tape dubbing center to be used as gifts or for public relations. MAET managers also purchased copyrighted tapes and ordered MAET employees to duplicate the tapes, in violation of copyright law. Duplication center records show that at least 196 unauthorized tapes were made from February 1990 to March 1993.

Supervision and Control of MAET's Relationship with the Foundation for Public Broadcasting (page 55)

- ***The MAET Board has not effectively supervised and controlled MAET's relationship with the Foundation for Public Broadcasting in Mississippi, thus allowing MAET's executive management uncontrolled use of Foundation funds for agency operations and some questionable purposes.***

MAET Employees' Role in the Foundation

— *Because MAET executive managers functioned as day-to-day administrators and policymakers within the Foundation during fiscal years 1990-1993, state funds were in effect used to manage the private foundation.*

During fiscal years 1990 through 1993, MAET managers carried out day-to-day administrative duties within the Foundation and made policy decisions on behalf of the Foundation. A. J. Jaeger became President of the Foundation on October 30, 1989, after being named Executive Director of MAET in December 1988.

On December 1, 1989, A. J. Jaeger promoted Sarah White from the Foundation's Development Director to a deputy director for MAET. Instead of relinquishing financial and management responsibilities for the Foundation when becoming a state employee, Ms. White retained financial responsibilities for the Foundation. As a result, the Foundation management and financial responsibilities from December 1, 1989, forward were controlled by MAET employees. Because the MAET Executive Director and General Manager spent time during the day managing Foundation operations, state funds were used to pay for their time spent on these tasks. Moreover, the state paid the $20,433 yearly salary of an administrative assistant working for the Foundation.

Since PEER's initial review of MAET in March 1993, the Foundation Board has taken steps to create an arm's-length relationship between MAET and the Foundation. However, MAET and the Foundation should adopt additional steps for separation of the entities.

MAET's Use of Foundation Funds

— *During fiscal years 1990 through 1993, MAET managers had uncontrolled use of Foundation funds, resulting in expenditures for general MAET administration and questionable expenditures rather than for programming expenses as represented to donors.*

The former MAET Executive Director, A. J. Jaeger, and MAET General Manager, Sarah White, had control over both Foundation and MAET budgeting and expenditures, even though this arrangement was in conflict with Foundation bylaws. The Foundation Board did not monitor the amount that was being spent on administrative costs and the MAET Board did not request reports from the Foundation on the amount being spent on administrative costs.

MAET management's flexibility in spending Foundation funds resulted in MAET administrative costs as follows:

- $1,049,912, or 84% of unrestricted Foundation funds, for administration of MAET and the Foundation during FY 1992 and nine months of fiscal year 1993, including $254,216 for the MAET Executive Office.
- Spending for employee perquisites (such as employee moving expenses, gifts, and flowers.
- $3,460 in books and other small items currently missing or unaccounted for.
- $139,999 in support of EdNet (a not-for-profit corporation) from November 1989 to December 2, 1992, without prior approval by the Foundation Board.
- Payments of $201,636 for two MAET consultants compensated without Foundation Board approval and without using written contracts to ensure accountability.
- Payment of MAET travel expenditures and paid administrative travel expenses unrelated to the production of programs.

Supervision and Control of MAET's Relationship with EdNet ***(page 72)***

- ***The MAET Board has not effectively supervised and controlled MAET's relationship with and expenditures for EdNet (a joint venture between educational agencies), resulting in an agreement with EdNet which violates state law.***

MAET management incurred some expenditures which should have been paid by other EdNet agencies. MAET also executed an agreement with EdNet which violates state law.

— *During fiscal year 1991, MAET executive managers utilized MAET funds for EdNet expenditures, rather than requiring all educational agencies participating in EdNet to bear their proportionate share of the expenses.*

When EdNet, a partnership of MAET and three other state educational agencies, came into existence in July 1990, it had no assets. Costs for its operations had to be paid by other parties such as MAET or the Foundation for Public Broadcasting. PEER determined that MAET paid developmental costs which benefited all EdNet agencies. If the EdNet agencies had shared equally in the costs, MAET would have saved $19,960.

— *The inter-agency agreement between EdNet and the four state educational agencies violates MISS. CODE ANN. Section 79-11-293 by allowing distributions of revenues by EdNet, a not-for-profit corporation. In addition, provisions in the amended EdNet charter allowing for distributions to the offices of the Governor and Attorney General also violate this section.*

The parties to EdNet entered into an agreement to operate the ITFS system which includes the provision that EdNet would disburse accumulated fund balances not required for operation. Paragraph 15 of the bylaws provides that if excess funds are distributed in accordance with Section 5 of the ITFS agreement discussed above, the Governor's Office and the Attorney General's Office shall be entitled jointly and equally to a 1/5 share of the excess funds. However, these provisions are in conflict with state non-profit corporation law. MISS. CODE ANN. Section 79-11-293 provides that, except for purchasing memberships and distributions upon dissolution, a not-for profit corporation shall not make any distributions.

Foundation Compensation to the Executive Director (page 76)

A. J. Jaeger, MAET's former Executive Director, violated MISS. CODE ANN. Section 25-1-98 by working on Foundation-related activities during MAET working hours.

In its March 9, 1993, report, the PEER Committee noted that the Foundation for Public Broadcasting in Mississippi, on July 9, 1991, authorized Jaeger to receive $17,000 per year in equal monthly installments as compensation for his services as a Foundation Director and President. Foundation officials told PEER that it was the Foundation's desire to compensate Jaeger for his time-consuming Foundation responsibilities. Since authorizing the compensation arrangement, the Foundation has made three payments to Jaeger totaling $31,166.67.

Prior to authorizing the compensation amount, the Foundation's directors requested and received an official Attorney General's opinion regarding the proposed compensation. The opinion stated that although there is no statutory prohibition for the Executive Director of the Authority to receive compensation from the Foundation for services rendered, the performance of the job duties on behalf of the Foundation must not occur during any periods for which the individual is being compensated by the state.

However, for the period July 12, 1991, through March 15, 1993, PEER identified at least forty-four Foundation-related public relations events and/or board meetings in which Jaeger participated during the normal 8 a.m. to 5 p.m. workday. According to MAET's personnel records, Jaeger did not take personal leave to compensate for portions of MAET workdays used to perform Foundation-related duties. Therefore, Jaeger claimed dual use of his workdays and received compensation from both the Foundation and MAET for these days, which violates MISS. CODE ANN. Section 25-1-98.

Recommendations

Appointment of MAET Board Members

1. The Mississippi Legislature should amend MISS. CODE ANN. Section 37-63-3 and 37-63-5 (1972) regarding appointment of MAET Board members. The four members appointed by the Governor should be chosen on staggered terms, one new member each year. Board meetings should be held at least monthly rather than at least quarterly.

Strategic Planning

2. The MAET Board should, in conjunction with agency managerial staff, develop a strategic plan for the agency. This plan should define clearly the agency's mission in light of MISS. CODE ANN. Section 37-63-1 and 37-63-13. The plan should include detailed statements of agency goals and objectives with measurable performance indicators by which the agency's planned performance can be evaluated. Annually, the board and managerial staff should review measured achievements of the agency for the purpose of determining how well the agency has performed.

Budgeting Procedures

3. The MAET Board should instruct the MAET General Manager to present total expenditures by division, including salaries, in a financial report. The reports should also outline general and special funds by division.

4. The MAET Board should review MAET's budgets and expenditures by division and source of funds over a period of years to understand the decreases in state funding for Instructional Television and other divisions in relation to the increases in state funding to the Production and Radio divisions.

5. The MAET Board should become familiar with language in state law, including enabling legislation and appropriations bills, specifying legislative intent for operation and funding of the agency.

6. The MAET Board should review the broadcast schedules set up each year by MAET management, agree on criteria used to judge the adequacy of the programming, and come to a consensus as to the completeness of the broadcast schedule. In order to judge the adequacy of programming the board should become familiar with the programs offered by the various divisions. Specifically, the board should study the number and types of instructional programs which have been offered to schools over a period of years.

7. The MAET Board should review the projects undertaken by the Production division and

compare trends in the production expenditures and programming expenditures and the products being obtained for the Mississippi audience.

8. The MAET Board should use the Production Division's budgeting system for "in-kind services" to determine how much of production personnel time is used in various programs, such as instructional television, public affairs and special projects, in order to understand better how the resources of the agency are used.

Production Expenditures

9. MAET management should report project budgets to the board routinely, such as quarterly or semi-annually, including budget and actual expenditures and revised budget amounts.

10. The Foundation and MAET boards should develop guidelines for the types of expenditures which can be made out of foundation and MAET funds for production projects, especially for local meals and entertainment for MAET employees.

11. MAET employees should continue to refine the agency's recently adopted production project budgeting system based on cost accounting principles and include the projected cost of MAET employee and equipment time.

12. In the instances when project budgets exceed more than one fiscal year, MAET employees should also develop a routine practice of reporting to management a budget which spans several years and shows amount spent by fiscal year.

Consultant Services

13. MAET and the Foundation should adopt guidelines for contracting with an individual or firm to provide consultant services. These formal guidelines should be designed to assure that MAET and the Foundation receive a service that will be in the best interest of the state at a cost that is fair and equitable.

    These formal guidelines should include detailed components concerning needs assessment, requests for proposals, a review committee, submission of contracts to the board for approval, written contracts, contract monitoring, and post assessment. (See detailed recommendation, pages 51 through 53 of the report.)

14. The State Auditor should review the MAET payments to John Sewell and, if he determines that it is in the best interest of the state, make demand, and if necessary bring suit, against A. J. Jaeger under MISS. CODE ANN. Section 7-7-211 for spending funds contrary to the restrictions in the MAET appropriation.

Equipment and Construction Planning

15. In the future, MAET should plan comprehensively for the acquisition of equipment and any construction projects. Such planning should, at a minimum, consist of:

    -- involving agency experts in the initial phases of designing the plan concept;

    -- integrating all necessary activities into a plan including estimating the costs of all activities needed to complete the project;

    -- time-lining the planning to insure effective management of the acquisition and construction;

    -- clearly defining project management responsibility;

    -- arranging for a formal review of plans by top management which shall be rendered at a certain time;

    -- adherence to the plan unless unforeseen difficulties require modification or cancellation.

Inventory Control

16. MAET management should formally adopt policies and procedures to account for and control agency equipment. MAET should use the policies and procedures already developed by the MAET Property Officer as a starting point and add policies that will expand the responsibilities of the MAET Property Officer (see detailed recommendation on page 54 of the report).

Tape Dubbing

17. The new Executive Director and the MAET board should draft written policies for tape duplication within MAET based on PBS rules and federal copyright law and require strict adherence at all times.

Agency and Foundation Relationship

18. The Foundation Board should change its bylaws to prohibit the MAET Executive Director from being President of the Foundation or serving on the Foundation Board.

19. The Foundation and MAET should enter into a contractual agreement outlining the working relationship between the two entities. The contract should include:

    - types of expenditures which MAET employees can use for MAET operations;
    - how the MAET Board will submit requests for funding to the Foundation Board;
    - how budgets for Foundation funds will be set by the Foundation and conveyed to the MAET Board for use by MAET;
    - all policies of MAET related to the Foundation and Foundation policies relating to MAET;
    - requiring arm's-length involvement between MAET and Foundation employees.

20. The MAET and Foundation boards should consider setting up a system so that the Foundation awards "grants" to MAET for agency use as the Foundation intends. The Foundation should base its "grants" upon the stated needs of the agency as presented by the MAET Board.

Use of Foundation Funds

21. Each year the MAET Board should develop a proposal for use of Foundation funds based on agency needs. The board should formally request funding from the Foundation to pay for these needs. The Foundation should consider the MAET Board's proposal and formally approve a list of funding commitments. MAET management should then apprise its employees of appropriate expenditures which can be submitted to the Foundation for payment for the following year.

22. The Foundation Board should closely scrutinize expenditures from Foundation funds and expand upon current rules for various types of expenditures. The board should determine a maximum amount of expenditures which can be used on support items and should disallow local meals and entertainment not directly related to specific activities such as fundraising. The board should limit, if not eliminate, the amounts spent on gifts, and should be required to approve all gift expenditures.

23. The Foundation should provide a clear written explanation to its members in each solicitation letter of the purposes for which funds will be expended.

24. The Foundation Board should review state purchasing guidelines and adopt comparable rules for expenditure of Foundation funds. If the board chooses to allow expenditures not reimbursable under state guidelines, then the board should make a conscious decision to allow those specific expenditures. Any exceptions to the rules set by the board should be brought before the board for approval before the expense is incurred.

25. The MAET Board should review the Foundation guidelines adopted as provided for in the previous recommendation. The MAET Board should endorse these guidelines or, if necessary, adopt revised guidelines and require MAET employees to follow MAET guidelines when expending Foundation funds.

26. If the Foundation purchases gifts, the purchase request form should always identify those purchases as gifts and name the recipient of the gift.

27. MAET and Foundation employees should organize and account for an office fund made up of monthly contributions by staff members to pay for gifts for staff members, rather than using Foundation funds.

28. The Foundation Board should set specific guidelines for the purchase of commodities such as books and require that the Foundation's Executive Director and staff follow these procedures.

29. MAET and the Foundation should create a library to house books purchased with both MAET and Foundation funds. Books on loan should be checked out by the person using the books. This will help ensure that books are held in a central location for use by the Executive Director and staff, improve control over safekeeping for the books, and dissuade possible purchase of books for personal use.

30. The Foundation should also place video and other tapes purchased into MAET's video tape library or develop its own tracking system for the tapes.

31. The Foundation should review and approve all expenditures made in the future for the support of MAET or some related entity prior to funds being made available to that entity.

32. The Foundation Board should enforce procedures approved at its May 18, 1993, meeting which require that all requests for personal services contracts to be funded by the Foundation be approved in advance by the Foundation. The new procedures prohibit expenditures for personal services contracts without a current Foundation contract, fully executed prior to the commencement of services.

33. The Foundation Board should enforce procedures it approved on May 18, 1993, which state:

    The Foundation Director of Development is responsible for final approval of all Foundation Purchase Requests, except as otherwise directed by the Foundation Board of Directors. MAET employees are not authorized to agree, or commit, to the expenditure of Foundation funds without the written approval of the Foundation.

Agency Relationship with EdNet

34. In the future, should the participating agencies have to expend funds for EdNet, they should formulate an allocation method so that all licensees pay their share in covering costs of EdNet.

35. EdNet and its four original members should amend their operating agreement so as to allow the licensee agencies to receive a fee for the use of their licenses. The bylaws should be amended so as to delete any provision allowing for a distribution of "excess funds" to the offices of the Governor or the Attorney General.

36. If EdNet operations result in cumulative income to the partnership, then this income should be deposited into a special Treasury account fund for appropriation by the Legislature.

Jaeger's Compensation by the Foundation

37. The MAET Board should establish accountability controls to insure that future directors or other employees do not receive compensation from private sources while working on state time.

38. The State Auditor should review the $3,207.89 paid to A. J. Jaeger as an MAET employee while he was performing Foundation-related duties during the MAET work day. If the State Auditor determines that it is in the best interest of the state, he should make demand, and if necessary bring suit, against A. J. Jaeger for the $3,207.89.

For More Information or Clarification, Contact:

PEER Committee
P. O. Box 1204
Jackson, MS 39215-1204
(601) 359-1226

Representative Cecil McCrory, Chairman
Brandon, MS (601) 825-6539

Senator Travis Little, Vice-Chairman
Corinth, MS (601) 287-1494

Senator William W. Canon, Secretary
Columbus, MS (601) 328-3018

An Expenditure Review of the Mississippi Authority for Educational Television and Related Foundations

Introduction

Authority

In response to numerous allegations by agency employees, private citizens, and anonymous complainants, the PEER Committee authorized an expenditure review of the Mississippi Authority for Educational Television (MAET), the related Foundation for Public Broadcasting in Mississippi, Inc. (Foundation), and the Mississippians for Educational Broadcasting (MEB). The Committee conducted the review pursuant to MISS. CODE ANN. Section 5-3-57 (1972).

PEER reviewed the private foundations because complainants alleged that MAET executive management had mismanaged Foundation funds. During the review, PEER received the full cooperation of the Foundation and MEB, as well as the MAET board. PEER would like to acknowledge the foundations' assistance in providing access to all records requested during the course of the review.

Scope and Purpose

PEER sought to determine whether the Mississippi Authority for Educational Television and its employees had properly managed its expenditures and those of the foundations formed on its behalf, the Foundation for Public Broadcasting in Mississippi, Inc., Mississippi EdNet Institute, Inc. (EdNet), and the Mississippians for Educational Broadcasting.

Method

In conducting this review, PEER:

- reviewed Mississippi and federal statutes and regulations governing the operation and management of MAET and the not-for-profit foundations;
- interviewed board members and current and former employees of the reviewed entities and officials of the Department of Audit; and,
- analyzed budget requests and financial audits and documents and examined records provided by the entities.

Overview

In its review of expenditures of the Mississippi Authority for Educational Television, PEER determined that the MAET board compromised fulfillment of its statutory responsibilities by relying extensively on MAET managers to formulate policy without appropriate review and control. The board allowed its executive management to supervise and control agency operations without proper oversight in the areas of agency mission and planning, compliance with copyright laws, and expenditure of agency resources for production projects, contractual services and capital expenditures. For instance, MAET managers:

- changed the funding emphasis for agency programs without board approval;

- failed to adhere to production budgets, resulting in significant cost overruns on those productions;

- violated restrictive provisions in agency appropriations by using agency funds for a contractor to provide public relations services to the former Governor's Office; and,

- failed to plan and manage the acquisition and installation of television equipment purchased with bonds authorized by the 1990 Legislature.

The MAET board did not effectively supervise and control MAET's relationship with the Foundation for Public Broadcasting in Mississippi, allowing MAET's executive management uncontrolled use of Foundation funds for MAET administrative costs and questionable purposes, instead of for programming as represented to donors. MAET used the majority of Foundation funds to pay administrative items such as MAET executive office operations (e.g., travel, supplies, meals and legal fees); MAET employee perquisites; consultants; and administrative expenses of Mississippi EdNet Institute, a related non-profit corporation.

The MAET board also did not effectively supervise and control MAET's relationship with and expenditures for EdNet (a joint venture between educational agencies). MAET executive managers utilized MAET funds for EdNet expenditures in fiscal year 1991 rather than requiring all educational agencies participating in EdNet to bear their proportionate share of the expenses. In addition, the inter-agency agreement between EdNet and the four agency members violates state law by allowing distributions of revenues by EdNet, a not-for-profit corporation.

PEER also found that A. J. Jaeger, MAET's former Executive Director, violated MISS. CODE ANN. Section 25-1-98 by working on and

receiving private pay for Foundation-related activities during MAET working hours. Also, MAET should not have paid Jaeger $3,208 in state funds for work Jaeger performed for the Foundation.

Background

Legal Authority of MAET

MAET's enabling legislation, MISS. CODE ANN. Section 37-63-1 (1972), states the purpose of MAET:

> *It is declared to be the legislative purpose of this chapter, and the public policy of the State of Mississippi, that there be established and developed in the public interest an educational* ***television and radio system which shall provide educational and instructional, professional growth, and public service programs for the students and citizens of Mississippi****, such system to be known as Mississippi Educational Television. The legislature therefore declares and determines that for these and other related purposes there is hereby established an agency of state government to be known as the Mississippi authority for educational television which shall have the responsibility for the administration, operation, control and supervision of educational television and radio in Mississippi.*

Agency Organization

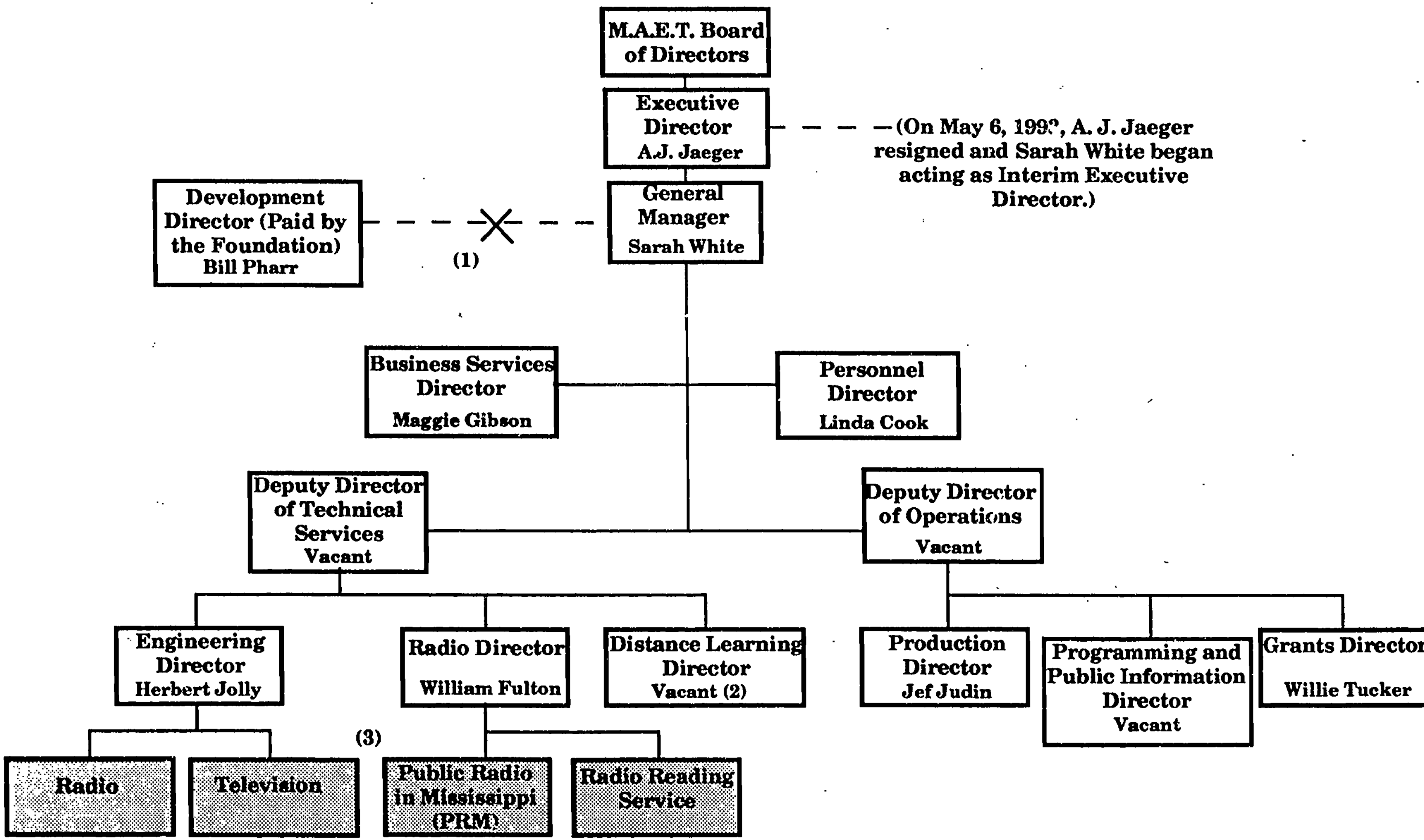
MAET operates educational television and radio through an organization consisting of eight divisions, as shown in Exhibit 1, page 5. MAET's organization includes a General Manager reporting to the Executive Director. The Executive Director's office employs its own staff, and all other personnel report to the Executive Director through the General Manager.

The MAET administrative Business Services and Personnel managers report directly to the General Manager. The employees in the remaining divisions officially report to two deputy directors; however, those deputy director positions have been vacant since April 1992. In practice all division directors report to the General Manager.

As noted in Exhibit 1, prior to April 1993 the Foundation's Development Director, whose salary has always been paid by the Foundation for Public Broadcasting, reported to the General Manager of MAET. After PEER's initial investigation (**An Investigation of Alleged Fraud by Personnel of the Mississippi Authority for Educational Television and the Foundation for Public Broadcasting**, March 9, 1993), the Foundation reviewed its bylaws and subsequently changed its practices to comply with its bylaws by requiring the development director to report to the President of the Foundation.

Exhibit 1

Mississippi Authority for Educational Television Organization Chart (Changes in Organization from March to June 1993)



(1) As of April 1993, the Foundation Development Director no longer reports to the General Manager. In the future, he will report to the Foundation President, who may or may not be the MAET Executive Director. Bill Pharr became acting Director of Development on March 5, 1993, and accepted the position permanently on April 5, 1993. (2) The Distance Learning division provides instructional television for the schools. The position for the director of the division became vacant in June 1992. (3) Shaded boxes represent agency functions carried out in these divisions.

SOURCE: PEER Analysis of MAET organizational charts and records and Foundation minutes.

The MAET agency is divided into two main sections--Technical Services, consisting of Engineering, Radio and Distance Learning divisions, and Operations, consisting of Programming and Public Information, Production, and Grants divisions.

Agency Function

MAET provides on-air television and radio broadcasts for schools and the general public. MAET purchases most of the television programs from film producers and distributors. In addition MAET employs television technicians and producers who create and film "local" productions at the MAET studios or on location outside the agency offices. MAET airs these local productions on the MAET station and sometimes sells the broadcast rights to other stations around the country.

As shown in Exhibit 1, MAET's services are delivered through eight divisions. The function of the various divisions are as follows:

- **Engineering**--provides basic television and radio broadcasting services and installs production and transmitting equipment. Engineering is responsible for day-to-day maintenance of all electronic equipment for the radio and television stations, which are known unofficially as the Mississippi Educational Network.

- **Distance Learning (Instructional Television)**--provides educational programming and assistance to Mississippi's educational institutions. Distance Learning staff travel to schools to teach them how to use television programs and various instructional television technologies. The division offers instructional programming to be broadcast directly to classrooms or taped by teachers for later use. Nearly one thousand Mississippi schools have reported using traditional instructional television offered by MAET. MAET also coordinates the more than 175 state schools which use equipment to access courses by satellite and the four schools which use fiber optic programming through the FiberNet system. FiberNet, which is funded by private corporate donors, allows teachers and students to interact through the television and allows teachers to access students' computers. MAET coordinates FiberNet in conjunction with the State Department of Education, Mississippi University for Women, and Mississippi State University.

- **Radio**--provides Public Radio in Mississippi (PRM) programming by acquiring national programs for broadcast such as "Morning Edition," "All Things Considered," and "Marketplace," and offering local programming including classical music and local news and information feature productions. Radio Reading Service of Mississippi offers special programming to the blind and print-

handicapped through special radio receivers. Volunteers read newspapers, magazines, books and other materials of interest over the system, which is broadcast twenty-four hours a day.

- **Programming and Public Information (for television)**--selects and purchases programs to be viewed on educational television, such as "Sesame Street," "Masterpiece Theater" and "Wall Street Week;" promotes MAET's services to viewers; and operates a video tape library and taping service for schools.

- **Production**--produces instructional programs such as "You've Got That Right," a five-part educational series for high school students about the Bill of Rights, and "Funny Bones," a health series for children; special television productions such as the "Mississippi Masters" series, including documentaries on Senator John Stennis, potter George Ohr, physician Arthur Guyton, and the Overstreet architects; and public affairs productions such as "Open Air," "Quorum," "Job Bank" and "Mississippi Speaks."

- **Grants**--Secures external financing to fund MAET-produced programs.

- **Business Services**--Coordinates all financial-related activities, such as operating MAET's accounting system, overseeing purchasing procedures, and preparing budget requests and operating budgets.

- **Personnel**--Coordinates agency personnel functions, including staffing, policies and procedures, salary administration, and training.

In addition to these functions, MAET is responsible for reviewing and approving all applications for educational television and radio licenses submitted to the Federal Communications Commission by public and private educational entities in the state; reviewing applications of these entities for federal, state, and private funds which involve the construction of facilities or acquisition of equipment; coordinating development of all educational television and radio in the state; and providing consultative services in all aspects of educational television and radio to any public or private agency within the state. According to these responsibilities outlined in MISS. CODE ANN. Section 37-63-13, the governing board of MAET has broad authority to oversee the operations of educational broadcasting in Mississippi and has the power to make rules governing its administration.

Agency Funding

As shown in Exhibit 2, page 9, in fiscal year 1992 the state's general fund provided $5,002,227, or 66%, of the $7,619,131 in total MAET revenues for the year. Mississippi's appropriation totaled 79% of the agency's ongoing revenues, which excluded a $1.2 million equipment grant. [MAET received $1,281,809 in non-recurring income from the U.S. Department of Commerce to purchase transmitter replacement equipment in fiscal year 1992 and $932,887 during fiscal year 1991.] Of the total 1992 ongoing revenues of $6,337,322, the second major source consisted of a $867,862 Corporation for Public Broadcasting (CPB) Community Service Grant. CPB, formed by the U. S. Congress, serves as a conduit for federal funding to public television stations. CPB provides annual grants to stations based on a formula which includes matching funds for monies raised by the stations and other sources of revenue.

Other income totaled $467,233 in 1992 and consists of revenues such as tower space lease income, production royalties, underwriting received for the creation of television or radio productions, interest on certificates of deposit, and equipment replacement fund income. MAET receives fees into the equipment replacement fund from other public agencies for the cost of providing noncommercial production or reproduction services (e.g., tape duplication services and teleconference coordination for the Board of Health). The agency receives income for leasing excess space on its radio and television towers to other non-commercial or commercial entities. MAET also receives production royalties when it sells the rights to MAET-produced programs to other stations for their broadcast use.

As illustrated in Exhibit 2, MAET state appropriations have fluctuated from $5,495,490 in fiscal year 1988 to a low of $5,002,227 in fiscal year 1992 during the five-year period. Corporation for Public Broadcasting grants ranged from approximately $845,000 to $918,000 during the five-year period. In fiscal year 1991 MAET received two CPB grants, which explains the increased income illustrated in Exhibit 2. CPB allows grant recipients two years to draw down the funds before the funds are lapsed back to CPB. As a result the agency is able to hold a portion of the grants in advance and invest the balances in certificates of deposit.

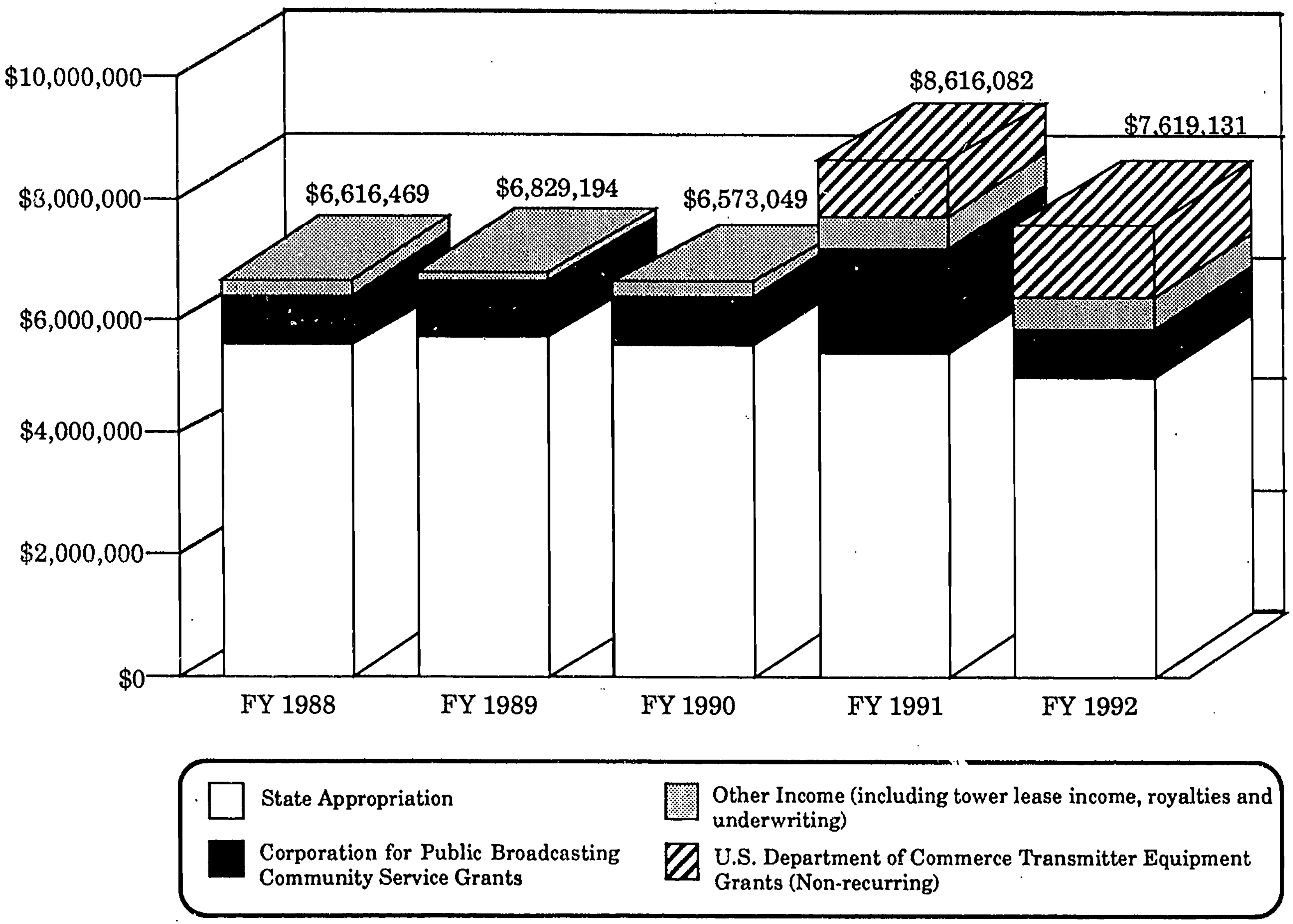
MAET's only other source of income is bond financing to upgrade production equipment which is not appropriated. The bond-financed equipment is discussed on page 43.

Agency Expenditures

MAET expenditures ranged from $6,646,261 in Fiscal Year 1988 to $7,713,492 in Fiscal Year 1992, as shown in Exhibit 3, page 10. Fiscal years 1991 and 1992 included non-recurring expenditures of $932,887 and $1,281,809, respectively, consisting of the transmitter replacement

Exhibit 2

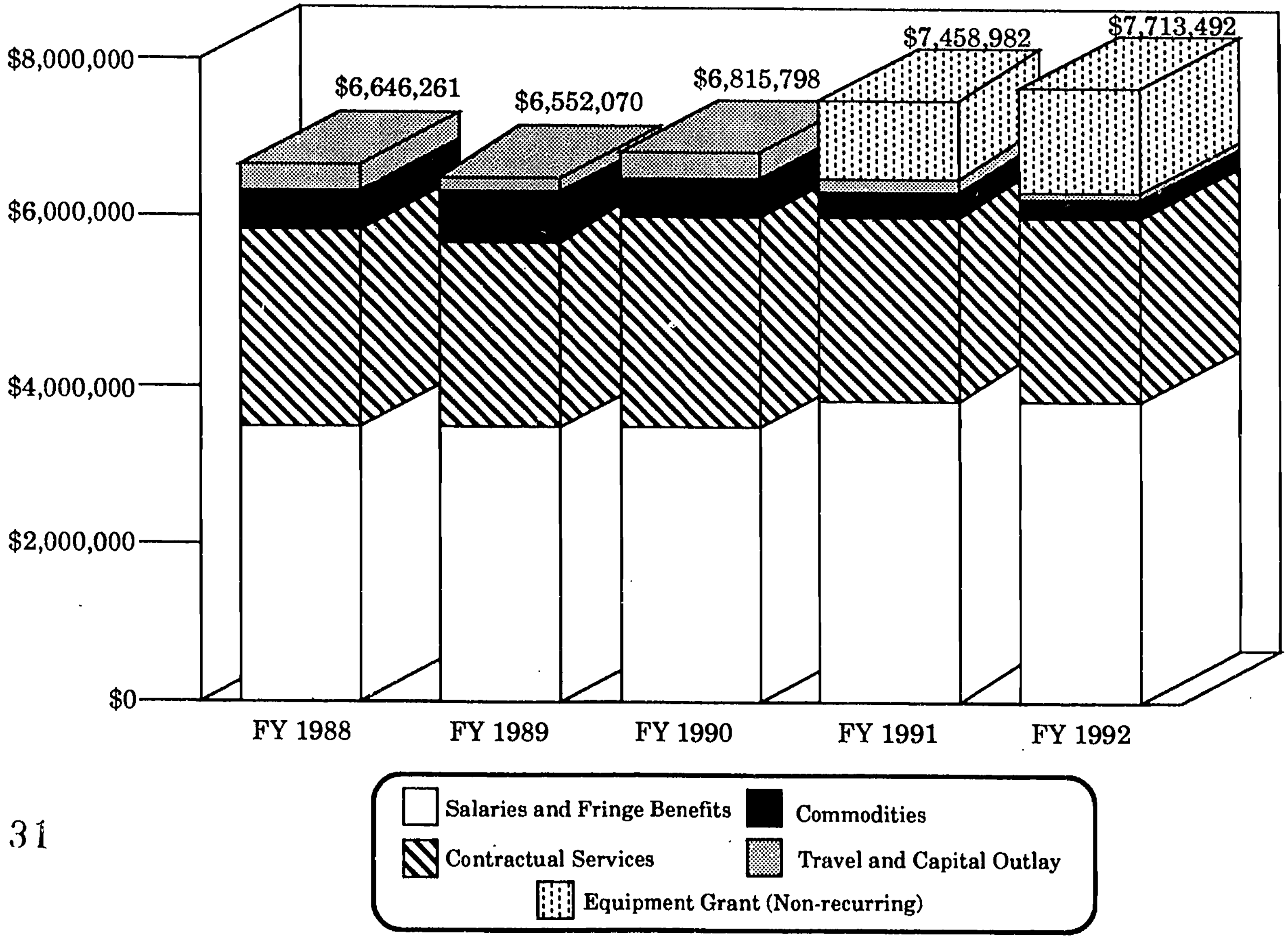
Mississippi Authority for Educational Television Revenues
Fiscal Years 1988-1992



SOURCE: PEER analysis of MAET annual financial audits and financial information provided by the Business Services Division.

Exhibit 3

Mississippi Authority for Educational Television Expenditures Fiscal Years 1988-1992



31

32

SOURCE: PEER analysis of MAET financial audits and financial information

equipment grants received from the U. S. Department of Commerce. MAET's largest category of expenditures is Salaries, Wages and Fringe Benefits ($3,808,519), at 49% of total 1992 expenditures and 59% of recurring expenditures. MAET's second largest spending category was Contractual Services at $2,317,266 in fiscal year 1992. MAET's contractual services expenditures include broadcast rights for programming, telephone and utilities, engineering contracts, insurance, copying, rental, and accounting, legal and other professional services. Contractual services declined 12% from fiscal year 1990 to 1991 due to the 5% statewide budget cut during the year. Salaries increased 9% during the year based in part on the employee raises enacted during the 1990 session of the Legislature. Commodities and Travel and Capital Outlay took the greatest cuts during that year, with 37% and 47% decreases respectively. In fiscal year 1992 contractual services increased only 3%. Commodities and Travel and Capital Outlay absorbed the 5% budget cut during 1992 and decreased 24% and 59%, respectively.

MAET's Relationship to Non-Profit Foundations

Exhibit 4, page 12, shows non-profit organizations related to MAET. In general, the Foundation for Public Broadcasting raises funds for MAET. In order to complete an expenditure review of MAET, PEER found it necessary to review certain expenditures of the Foundation for Public Broadcasting. While the Foundation is not a state agency, and is a not-for-profit corporation chartered under the laws of the state of Mississippi, it has historically had close ties to MAET. The Foundation is the private fundraising arm of MAET, and has in the past used MAET employees for staff support. The Executive Director of MAET also serves as a member of the Foundation Board of Directors. These close ties, if not properly overseen and monitored, could lead the public to believe that the activities of the Foundation are synonymous with those of MAET. The close relationship could also result in the Foundation's engagement in activities, such as local production funding, which could commit MAET resources to projects or activities which the agency governing board did not have the opportunity to review and approve. During the course of the review, the Foundation gave the PEER Committee its full cooperation. PEER would like to acknowledge the Foundation's assistance in providing financial and other records when requested.

Other foundations closely related to MAET are Mississippians for Educational Broadcasting and EdNet. Mississippians for Educational Broadcasting coordinates volunteers who support MAET, organizes promotional events, and serves as an MAET liaison to the Legislature. EdNet is a partnership between MAET, the Board of Trustees of Institutions of Higher Learning (IHL), the State Board for Community and Junior Colleges, and the State Board of Education to oversee the development of an ITFS (Instructional Television Fixed Service) system in the state. The following sections discuss the purposes and funding of these groups.

Exhibit 4

Relationship Between MAET and Related Non-Profit Organizations (Reflects Changes in Board Officers from May 1993 to July 1993)

Mississippi Authority for Educational Television

A. J. Jaeger (1), Executive Director (2)
Olon Ray, Chairman
Ann Homer Cook, 1st Vice Chairman
Barbara Longest, 2nd Vice Chairman
Suellen Hillman
Michael Allred
Johnny Franklin
Tom Burnham, ex officio, Superintendant of Education

Foundation for Public Broadcasting

A. J. Jaeger (1), Foundation President (3)
Paul Fugate, Vice President (3)
J. L. Scott, Treasurer
Ovin Ray, Secretary
Larry L. Johnson
John L. Maxey II
Charles O. Dunn
Bill Pharr, ex officio, Development Director
Sarah White, ex officio (2), Acting MAET Executive Director

Mississippi EdNet Institute

A. J. Jaeger (1), President (4)
Michael Allred, Chairman
Talmadge Portis, Vice-Chairman
Paul Breazeale, Treasurer
Elizabeth Richardson, Secretary
Ricki Garrett
Governor Kirk Fordice or designee, ex officio
Attorney General Mike Moore or designee, ex officio

Mississippians for Educational Broadcasting

Executive Committee:
Harrylyn Sallis, President
John Clark, Vice President
Harriet Kuykendall, Secretary
Paul Fugate, Treasurer
Paul Canonici
Lisa Hall
Jane Crater Hiatt
Jane Lee
Larry L. Johnson
Helen Moore
John A. Welsch

NOTE: (1) A. J. Jaeger resigned from his positions on 5/6/93. (2) Sarah White became Interim Executive Director on 5/6/93. (3) Paul Fugate became acting Foundation President as of May 1993. (4) Sarah White became acting President as of May 1993. (5) Italicized names denote individuals who serve on two or more boards.

SOURCE: Organization minutes and records.

Foundation for Public Broadcasting in Mississippi, Inc.

Foundation Purpose and Organization

In 1986 MAET, under the guidance of F. Lee Morris, then Executive Director for MAET, created the Foundation for Public Broadcasting in Mississippi, a not-for-profit corporation. The charter of the Foundation, in paragraph 3, provides that it shall acquire property and administer funds:

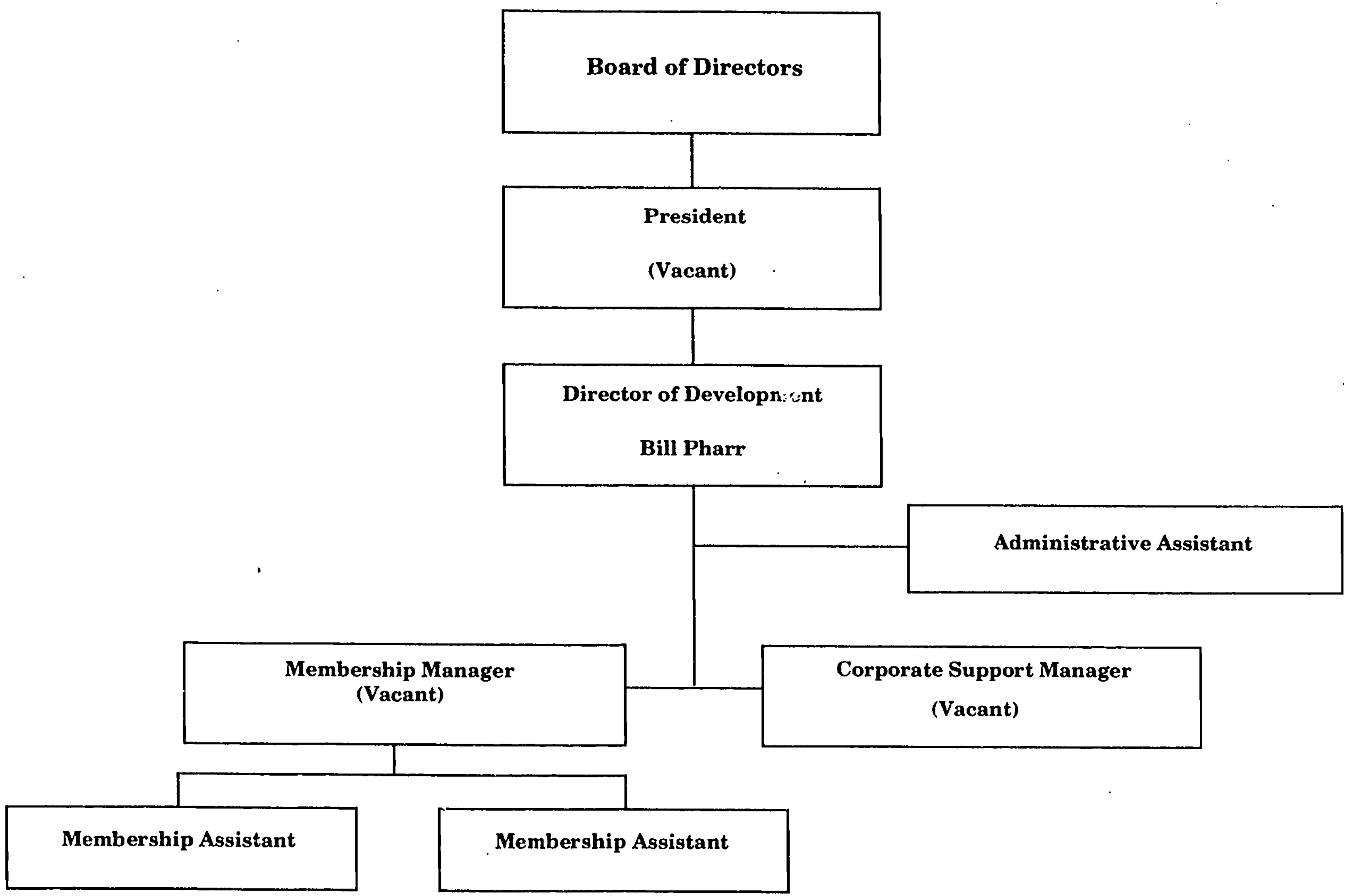
> *. . .which shall be devoted exclusively to education and charitable purposes which promote, aid, and advance educational and public broadcasting, public telecommunications in general, and the aims and objectives of the Mississippi Authority for Educational Television in providing educational and public broadcasting to the citizens of the state of Mississippi. To attain these objects and purposes, the corporation shall provide financial support to the Mississippi Authority for Educational Television each fiscal year.*

The charter also provides that the Foundation is organized "to conduct and implement all fund raising activities on behalf of the Mississippi Authority for Educational Television."

The organization structure of the Foundation consists of a governing board of not less than nine nor more the sixteen directors. The Executive Director of the Mississippi Authority for Educational Television and the Foundation's Director of Development are ex officio members of the board. All directors are selected by the board. These revised guidelines in the bylaws were changed after PEER's initial investigation of MAET in response to concerns over conflict of interest. Previously all directors were selected by the Foundation Director, who also served as MAET Executive Director.

As shown in Exhibit 5, page 14, the President of the Foundation reports to the Foundation Board. Currently the Director of Development, Bill Pharr, reports directly to the Foundation Board until the board appoints a permanent President. Other board employees include an administrative assistant, who was previously a state employee until the Foundation reviewed its operations following the PEER report and decided to hire this person as a Foundation employee; a membership manager (position currently vacant); a corporate support manager (position currently vacant); and two membership assistants.

Exhibit 5
Foundation for Public Broadcasting in Mississippi, Inc., Organization Chart



SOURCE: Records of Foundation for Public Broadcasting in Mississippi, Inc.

Foundation Funding

The Foundation's receipts nearly doubled from $515,096 in calendar year 1988 to $1,002,816 in the state fiscal year ended June 30, 1992. The trends shown in Exhibit 6, page 16, show much lower revenues in 1991 because the audit was conducted on a six-month basis during that year while the Foundation converted from the calendar year to the state fiscal year. Contributions, primarily from individuals, comprised 66%, or $662,298, of the Fiscal Year 1992 receipts. Corporate underwriting of programs aired on the Mississippi Educational Network television station totaled $207,109, or 21%, of the 1992 receipts. The third largest type of income consisted of federal grants received into the Foundation for the purpose of underwriting productions at the MAET television studios ($101,481, or 10%).

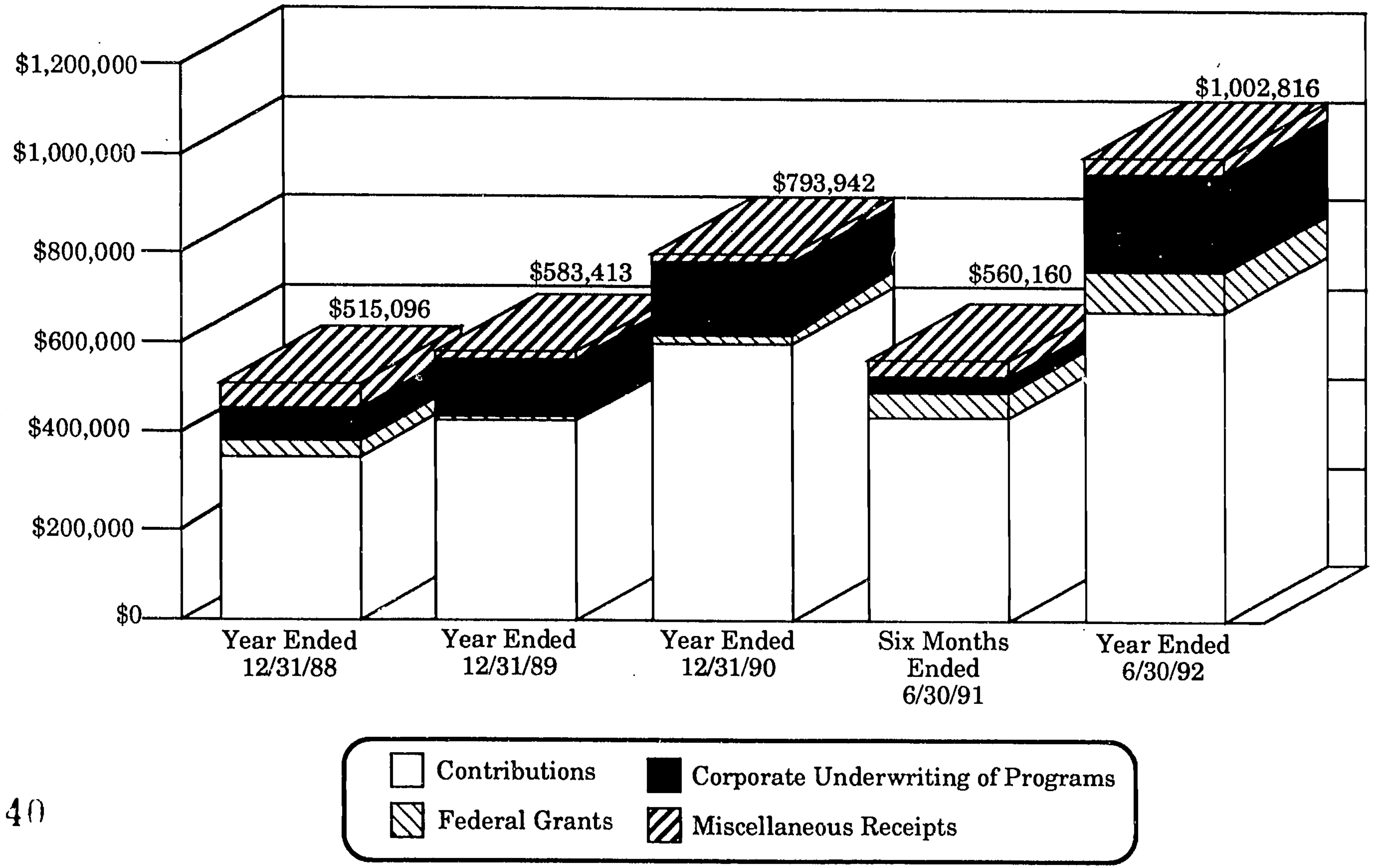
Foundation Disbursements

Foundation disbursements, increasing from $472,421 in calendar year 1988 to $1,021,095 in the year ended June 30, 1992, are presented in Exhibit 7, page 17, which depicts disbursements categorized according to the audited financial statements. As shown in the exhibit, fundraising expenditures, which are necessary to increase revenues to the Foundation, decreased from $197,498 in calendar year 1988 to $98,287 in the year ended June 30, 1992. Fundraising expenditures dropped by 50% over the five-year period in which contributions and underwriting increased by 99% from $437,258 to $869,407. Part of this may be attributed to the Foundation becoming more well known and individuals' and entities' renewing their annual contributions with less effort on the part of the Foundation. Management and general expenditures, which increased 115% to $155,128 over the five-year period, consist of the overhead of the Foundation offices. "Board designated expenditures" consists of expenditures designated by the board of the Foundation for support of MAET and fall primarily into the category of administrative support for the offices of MAET executive management. Program services, which also consist of expenditures made by the Foundation on behalf of MAET, increased from $202,818 to $570,432 during the period.

PEER found that the audited financial statements were not helpful in explaining how Foundation receipts are actually spent because the "program services" category includes expenditures which MAET management used for MAET administrative costs. Accordingly, PEER reviewed the expenditures by type and by project, as shown on Exhibits 8 and 9, pages 18 and 19, for the fiscal year ended June 30, 1992, and for the nine months ended March 31, 1993. As shown in the finding on page 31, PEER found that MAET management had used a very large portion of "program services" expenditures for administration of MAET and the Foundation instead of for programming and production.

Exhibit 6

Foundation for Public Broadcasting Receipts
1988-1992



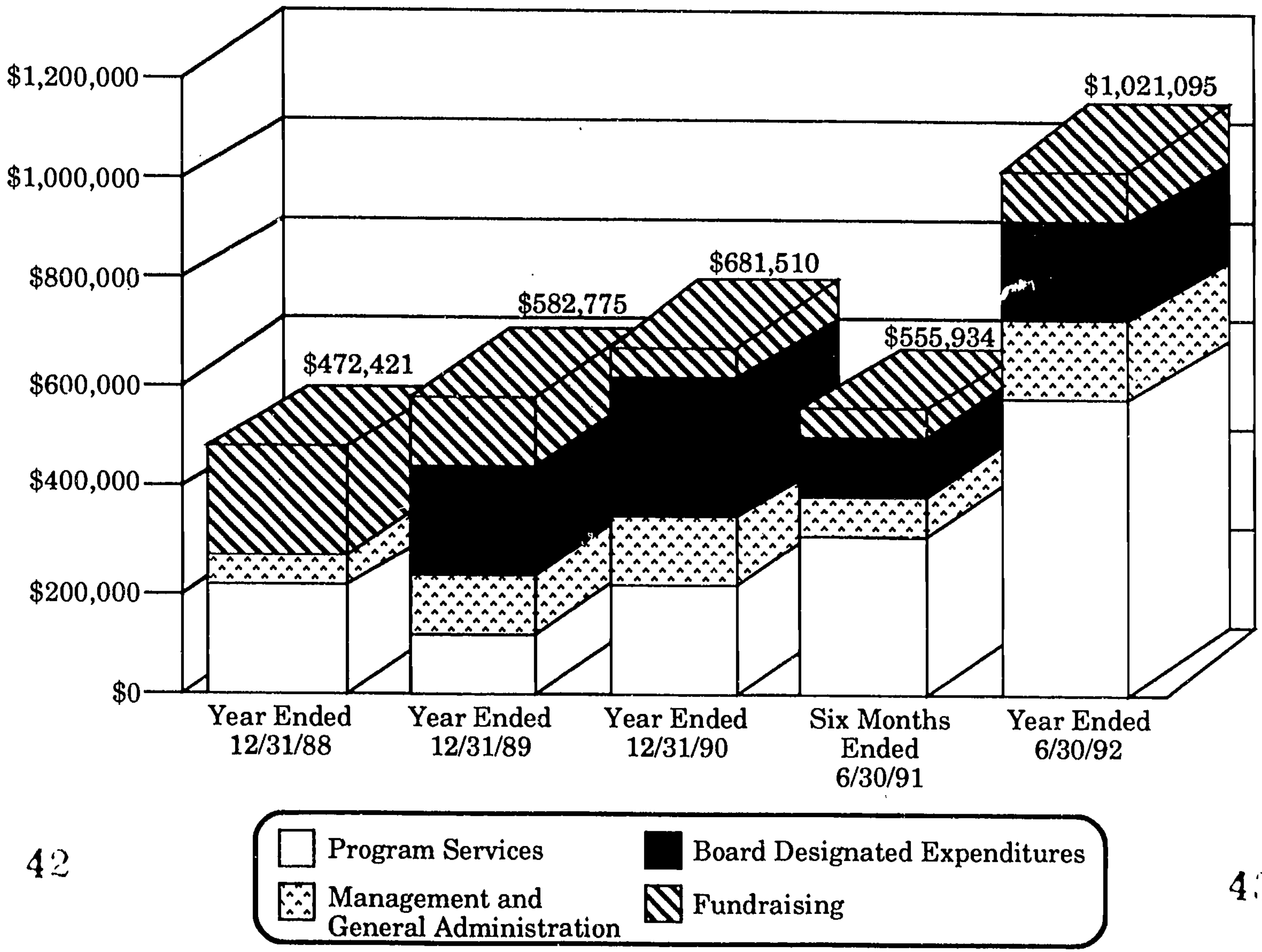
40 41

NOTE: Lower revenues are indicated in 1991 because the Foundation's audit was conducted on a six-month basis that year while the Foundation converted from the calendar year to the state fiscal year.

SOURCE: Foundation for Public Broadcasting in Mississippi, Inc., audited financial statements.

Exhibit 7

Foundation for Public Broadcasting Disbursements
1988-1992



42

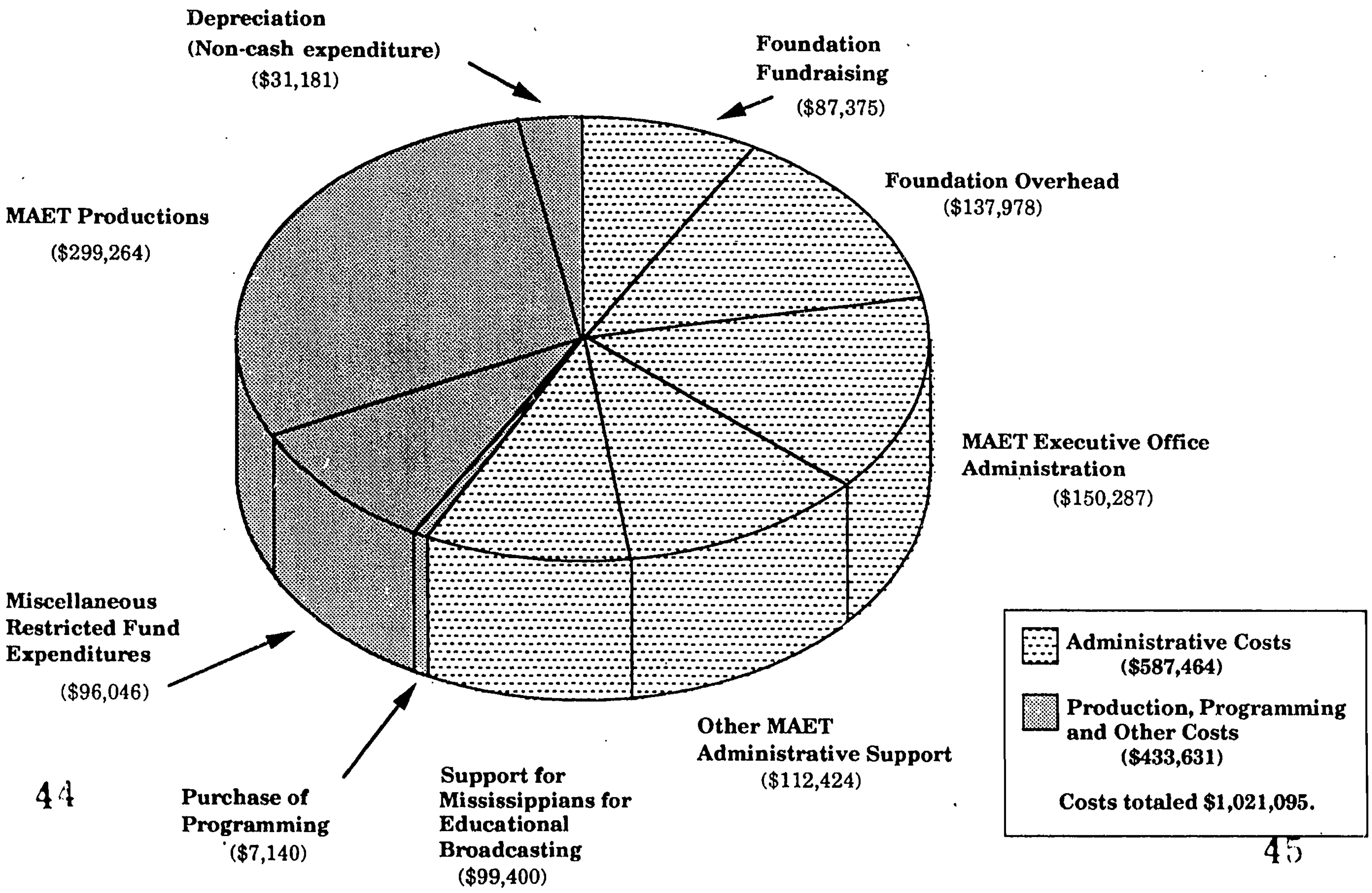
43

NOTE: Lower expenditures are indicated in 1991 because the Foundation's audit was conducted on a six-month basis that year while the Foundation converted from the calendar year to the state fiscal year.

SOURCE: Foundation for Public Broadcasting in Mississippi, Inc., audited financial statements.

Exhibit 8

Foundation Expenditures for Fiscal Year 1992

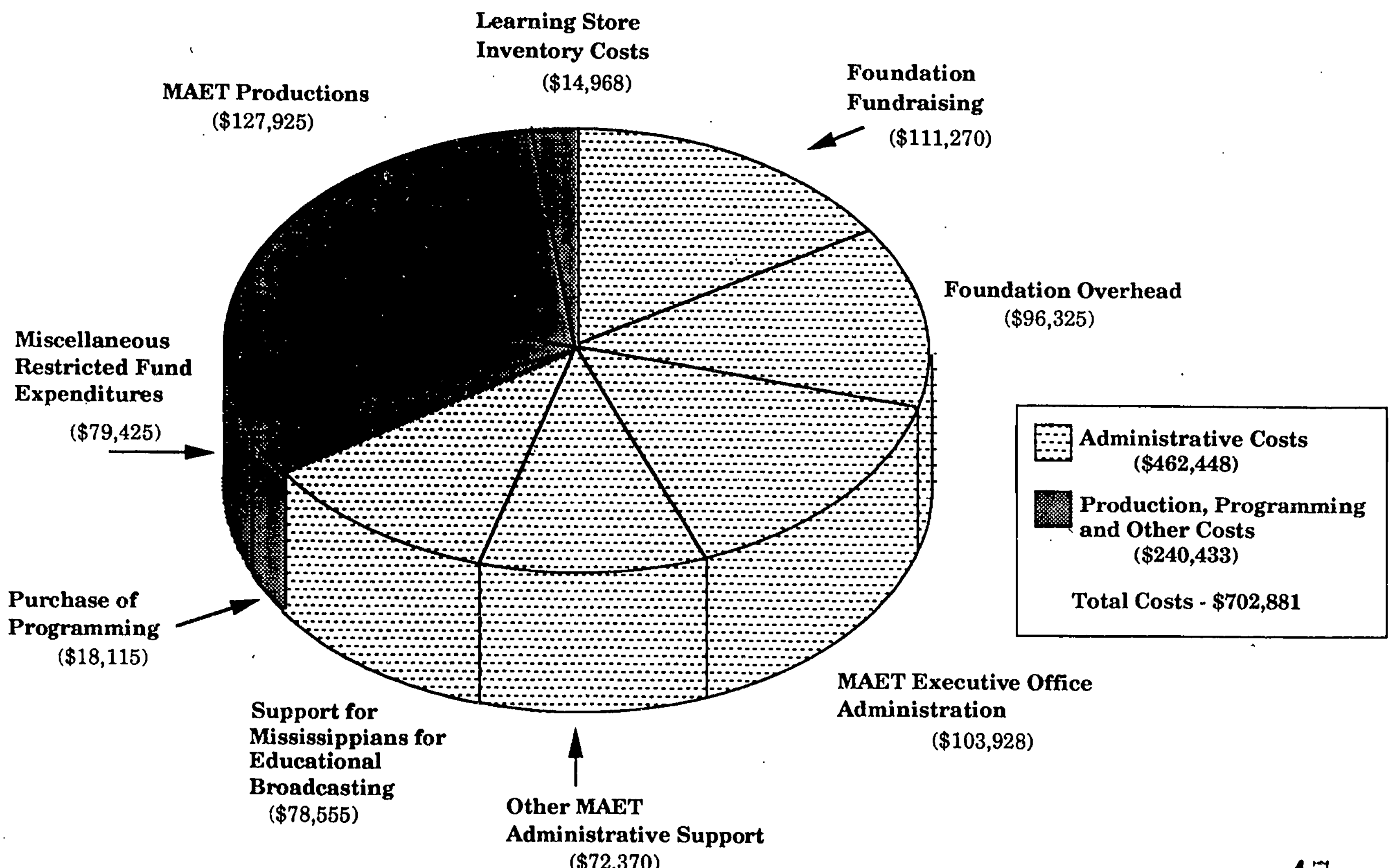


SOURCE: Records of the Foundation for Public Broadcasting in Mississippi, Inc.

44 45

Exhibit 9

Foundation Expenditures for the Nine Months ended March 31, 1993



4 3 47

SOURCE: Records of the Foundation for Public Broadcasting in Mississippi, Inc.

Mississippians For Educational Broadcasting, Inc.

Mississippians for Educational Broadcasting, Inc., is a not-for-profit corporation established to support the Mississippi Authority for Educational Television. This organization traces its history to the late 1960's when concerned citizens set up an organization to help promote the development of educational television in Mississippi.

The present charter of the organization provides that MEB is to:

- stimulate interest and encourage involvement of the citizens of Mississippi in educational television;
- reflect the views and needs of the citizens of Mississippi to the official state educational television board;
- assess and promote improvement in the quality and progress of educational television; and,
- promote widespread public interest in and support for educational television through state-wide organizations, private associations, and individuals.

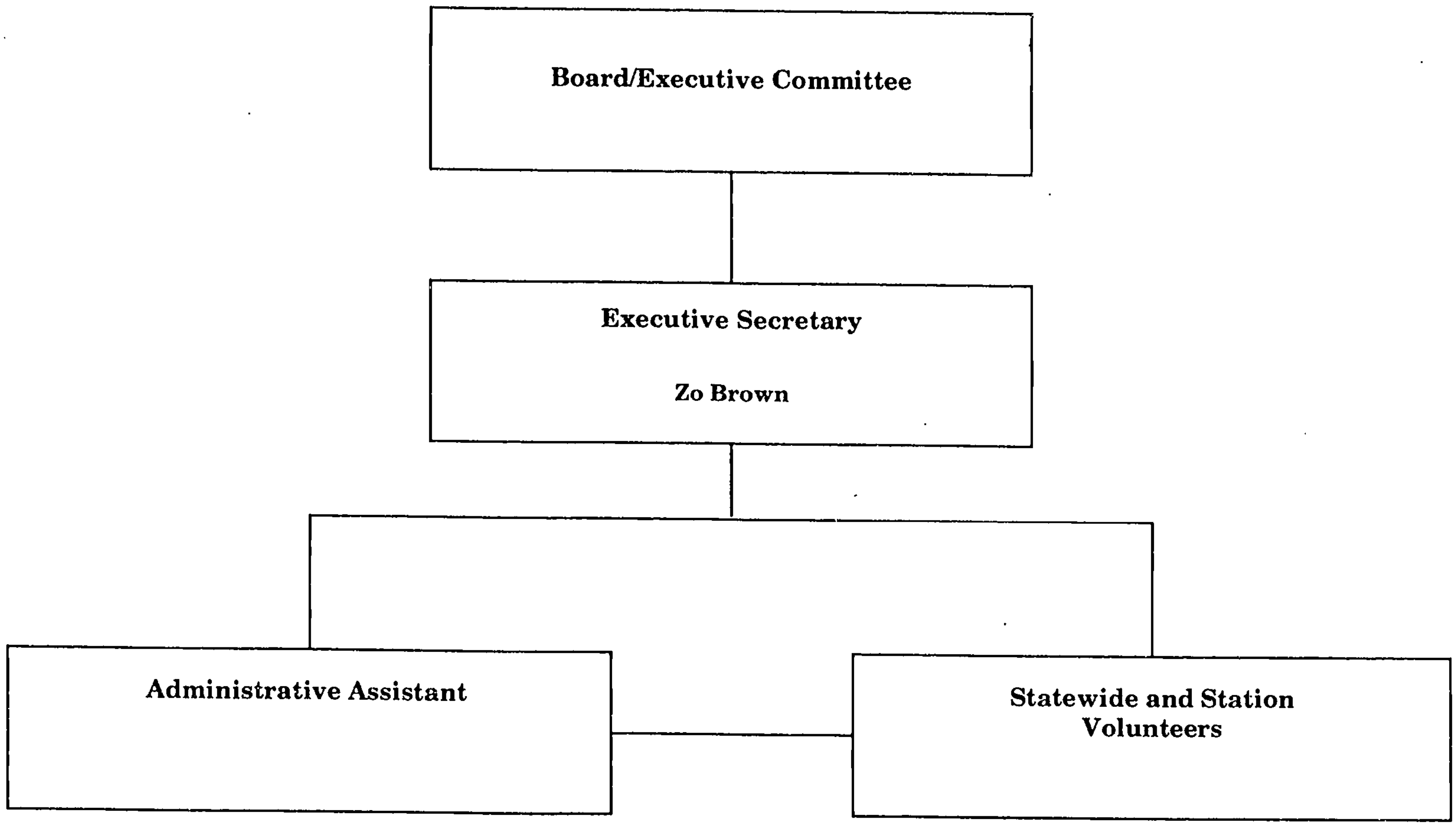
MEB has a governing board of forty-one with an executive committee of eight. As shown in Exhibit 10, page 21, the MEB staff consists of an Executive Secretary and an Administrative Assistant. The Executive Secretary oversees a statewide network of volunteers who organize events and in some cases make legislative contacts in support of educational broadcasting in Mississippi. Events organized include premieres to promote MAET productions, events to promote the installation of new transmitters, meetings to raise citizen awareness of MAET, and volunteer organization drives.

MEB is funded solely by the Foundation. Foundation support of MEB totalled $99,400 during the Foundation's Fiscal Year 1992, as shown in Exhibit 8, page 18. The Foundation's support of MEB approximates $100,000 each year. MEB's receipts from the Foundation are used primarily to pay for:

- MEB staff salaries and benefits (66% of expenditures over the last two fiscal years);
- promotional events (9%);
- accounting services (4%);
- travel (4%); and,
- rent (3%).

Exhibit 10

Mississippians for Educational Broadcasting, Inc., Organization Chart



SOURCE: Records of Mississippians for Educational Broadcasting, Inc.

MISS. CODE ANN. Section 37-63-9 provides that MAET will seek to develop an ITFS (Instructional Television Fixed Service) system as a viable component of the state's educational telecommunications system. On July 24, 1990, MAET, the Institutions of Higher Learning, the State Board of Education, and the State Board for Community and Junior Colleges created Mississippi EdNet Institute, Inc., a not-for-profit corporation organized to oversee the development of ITFS in the state. (See the history of EdNet in Appendix A, page 81.) EdNet's articles of incorporation provide that EdNet is to promote and encourage education at all levels in the state. The public/private partnership seeks to provide statewide access to a wireless cable system with no significant expenditure from the state.

ITFS is a set of low-powered, high-frequency television channels ("wireless cable") set aside for educational purposes by the Federal Communications Commission, which allows interaction between students and teachers over the system. ITFS stations are intended to provide formal educational and cultural development to students enrolled in accredited public and non-public schools, colleges and universities. ITFS can utilize interactive technology to provide instruction and training to school students and other persons in need of some form of formal educational training. This technology is different from the traditional form of television instruction because it is interactive, thus allowing the student to communicate with the teacher over the system. Because as many as four different programs can be run simultaneously, a large volume of programming can be transmitted with the system.

State law provides that MAET will seek to develop ITFS as a viable component of the state's educational telecommunications apparatus. Specifically, MISS. CODE ANN. Section 37-63-9 provides:

> *(2) The authority, and any other state agency or board licensed by the Federal Communications Commission to provide ITFS educational television, are authorized and empowered to provide access to video learning resources for all Mississippi public schools through the development of multi-channel interactive video systems (ITFS) for the public schools which shall be able to interact with other school districts in the state. In order to establish the ITFS system without expenditure of significant state funds, the authority, and any such other agency or board licensee with the approval of the authority, are authorized and empowered to enter such contracts as may be necessary, including contracts with any private educational institution or private nonprofit educational organization in regard to the construction, purchase, lease, or lease-purchase of facilities and equipment, employment of personnel, and the*

operation and management of said ITFS system for the purpose of providing ITFS educational television services to educational institutions and interested citizens in the state. The authority shall provide that all public schools are equipped to utilize the ITFS system by no later than July 1, 1998.

In addition, the MAET board, through MISS. CODE ANN. Section 37-63-13, is empowered to:

(1) Control and supervise the use of television broadcast and ITFS channels and radio frequencies reserved by the Federal Communications Commission for noncommercial, educational purposes in Mississippi. It is further empowered to authorize the sale or lease of any excess capacity of such ITFS channels for commercial use to provide the funds necessary to implement the purposes of Section 37-63-9(2).

The EdNet concept grew out of a Governor's Task Force on Telecommunications, which issued a report on March 10, 1989. While the task force did not specifically determine that management and oversight of an ITFS system should be in the hands of a not-for-profit corporation such as EdNet, it did stress the need for public oversight of the system. It also stressed a need for a formally developed and supervised ITFS system for Mississippi which could properly utilize the twenty ITFS frequencies allotted to the state by the Federal Communications Commission. The four entities which comprise EdNet signed an operational agreement on August 23, 1990, to unify and coordinate development of the system. Since the group's formation, each of the four educational institutions comprising EdNet has obtained a group of licenses for four channels. EdNet itself has also obtained a group of licenses for four channels.

EdNet's Articles of Incorporation provide that EdNet is to promote and encourage education at all levels in the state and to contract with MAET, IHL, the State Board of Education, and the State Board for Community and Junior Colleges to establish a public/private partnership. The partnership is to provide statewide access to a wireless cable system with no significant expenditure from the state. The system will require that certain equipment be installed at the user's home, school or place of business in order to receive the ITFS programs. In order to install a system with little cost to the state, EdNet must contract with a private party to operate the system, construct, maintain and staff the system. In return the private contractor will gain the right to use the excess capacity of the ITFS stations to broadcast non-educational programming to persons capable of receiving the signal.

From inception in July 1990 through October 31, 1992, EdNet had received $100,416 in income and had expended $98,202, for a cash balance of $2,214. As explained on page 81, EdNet had received $100,000 of its income

from a potential ITFS contractor. EdNet spent the $100,416 in receipts primarily for legal expenses and travel related to developing ITFS. The Foundation paid an additional $75,792 for EdNet's expenses. As explained in the finding on page 68, EdNet still owes the Foundation the $75,792.

Findings

Board-Agency Relationship

During fiscal years 1989 through 1993, the Mississippi Authority for Educational Television relied excessively on MAET managers to formulate policy without appropriate review and control.

In conducting this review of MAET's expenditures, PEER found that agency management controlled many areas of operations without board input and kept critical decisionmaking information from the MAET Board and the Foundation Board. Agency executive management consisted of the Executive Director, A. J. Jaeger, employed from December 1988 to May 6, 1993, and Sarah White, who served as Deputy Director from December 1989 to August 31, 1990; General Manager from September 1, 1990 to May 5, 1993; and interim Executive Director from May 6, 1993, to the present. In a memo from Jaeger to his division directors on October 15, 1990, he stated that White would be highly involved in management of all agency activities and in all interaction between divisions.

MAET's enabling legislation, MISS. CODE ANN. Section 37-63-1 (1972), states that the MAET Board has ultimate control and oversight responsibilities over MAET, as follows:

> *It is declared to be the legislative purpose of this chapter, and the public policy of the State of Mississippi, that there be established and developed in the public interest an educational television and radio system which shall provide educational and instructional, professional growth, and public service programs for the students and citizens of Mississippi, such system to be known as Mississippi Educational Television. The legislature therefore declares and determines that for these and other related purposes there is hereby established an agency of state government to be known as the Mississippi authority for educational television which shall have the responsibility for the administration, operation, control and supervision of educational television and radio in Mississippi.*

The MAET Board relied extensively on MAET executive managers to formulate policy. MAET managers many times made decisions without seeking the input of the board. For instance, the MAET managers changed the funding emphasis of internal agency programs and overran production budgets without consulting the board. At the same time, MAET Board minutes do not reflect that the MAET Board asked the kinds of questions which would demand accountability from management.

PEER also noted that every four years, four of seven MAET Board members are newly appointed to the board by the incoming governor. Because over one-half of the institutional memory of the board is wiped out every four years, the board's ability to oversee the agency is diminished. Staggered terms for board members would increase the board's ability to govern the agency with the appropriate review and control required by the statute.

As a result of the lack of board oversight, MAET made decisions which were detrimental to the accountability of agency operations as well as Foundation funds. For instance, MAET management employed a consultant in violation of appropriation provisions, failed to plan adequately for acquisition and installation of production equipment, and spent the majority of Foundation funds for general administration costs rather than for programming and production, as had been represented to donors.

The board's lack of oversight allowed MAET management to make questionable expenditures in the areas of contractual services, production projects, and capital expenditures. In addition, the board failed to oversee MAET management's adherence to copyright law and establishment of mission and long-term strategic planning. Because the board did not oversee the agency's relationship with the Foundation for Public Broadcasting, Inc., and Mississippi EdNet Institute, Inc., MAET management was able to use Foundation funds for MAET administration costs and other expenditures not disclosed to Foundation donors.

Recommendation

The Mississippi Legislature should amend MISS. CODE ANN. Section 37-63-3 and 37-63-5 (1972) regarding appointment of members of the MAET Board. The law requires that four of seven board members are appointed every four years by the Governor on February 1, at the beginning of each gubernatorial term. The statute requires a minimum of one board meeting each quarter. The law should be changed as follows:

a. The four members appointed by the Governor should be chosen on staggered terms, one new member each year.

b. Board meetings should be held at least monthly rather than at least quarterly.

(See Appendix B, page 82, for draft legislation regarding the appointment of members to the MAET Board.)

Supervision and Control of Agency Operations

- ***The MAET Board allowed its executive management to supervise and control agency operations without proper oversight of agency mission and planning, expenditure of agency resources, and compliance with applicable laws.***

Agency Mission and Planning

-- *As of June 1993, the MAET Board had not developed a long-term strategic plan to direct MAET and Foundation resources toward fulfilling the agency's mission for educational and public broadcasting in the state.*

As noted in MAET's enabling legislation quoted on page 4, the governing board of MAET has broad authority to oversee the operations of educational broadcasting in Mississippi and the power to make rules governing its administration.

While this authority is extensive, CODE provisions do not specifically mandate a program for administration. This important component of management is left to the board and its personnel.

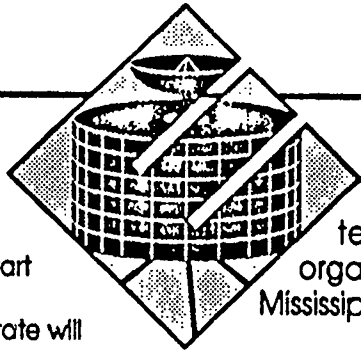
The MAET Board has not developed and implemented a strategic plan to aid it in fulfilling its statutory duties. The agency has not succeeded in identifying the overall mission of the agency and has not identified and published mission statements for the agency's divisions. In spite of the lack of mission statements, the agency has tried to devise divisional objectives, but these have been subject to annual change since 1991. It should be noted that these objectives are not measurable, and could not have provided the agency with meaningful indicators of agency performance. For instance, the Engineering Division's current mission statement says that the division should assure that all equipment functions within agency standards and complies with Federal Communications Commission guidelines. A similar but measurable objective would be to "check agency equipment in all locations x number of times per year with x% compliance rate."

At the July 1992 board meeting, a member of the MAET Board reviewed a list of agency objectives (see Exhibit 11, page 28) and noted that there should be an agency mission statement as well as evaluation criteria to determine performance. At the same meeting, the board approved the objectives placed before it. As of the date of this report there has been no further board action on the matter.

Although MAET staff made efforts to develop a mission and plan for the agency's future, the planning efforts included the following shortcomings:

Exhibit 11

Mississippi Educational Network
FY1993 Objectives



1. To support and implement the National Education Goals.

   Goal #1: By the year 2000, all children in America will start school ready to learn.

   Goal #2: By the year 2000, the high school graduation rate will increase to at least 90%.

   Goal #3: By the year 2000, American students will leave grades 4, 8 and 12 having demonstrated competency in challenging subject matter including English, mathematics, science, history and geography; and every school in America will ensure that all students learn to use their minds well, so they may be prepared for responsible citizenship, further learning and productive employment in our modern economy.

   Goal #4: By the year 2000, U. S. students will be first in the world in science and mathematics achievement.

   Goal #5: By the year 2000, every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

   Goal #6: By the year 2000, every school in America will be free of drugs and violence and will offer a disciplined environment conducive to learning.

2. To increase utilization of educational programming in Mississippi's classrooms to enrich and enhance the learning experience.

3. To provide a safe harbor of high quality, family-oriented radio and television programming for a statewide audience.

4. To chart the future of the state's telecommunications resources by leading the organization, management and development of Mississippi's Statewide Telecommunications Plan.

5. To foster increased support from citizens, volunteers and members by strengthening our ties to the state's communities.

6. To increase the frequency of use of public radio and television programming by existing audiences.

7. To increase revenue from private sources (corporate underwriters and individual members) and identify and cultivate new sources of revenue through public/private partnerships for educational initiatives.

8. To develop high quality radio and television programming for a national audience that will showcase the value of Mississippi's culture to the rest of the country.

9. To operate more efficiently and effectively within existing resources.

10. To make the Mississippi Educational Network a more productive and enjoyable place to work through continued implementation of Total Quality Management (TQM) and Principle-Centered Leadership.

- A review of MAET's "State of the Agency" reports for 1991 and 1992 shows that the agency omitted from its 1992 mission statements policies on editorial integrity. Editorial integrity is an important concept because it defines the responsibilities of the network as licensee with respect to its requirements in political neutrality in programming.

- The statements of objectives prepared by the agency for Fiscal Year 1993 (see Exhibit 11, page 28) and Fiscal Year 1992 (see Exhibit 12, page 30) were materially different. For instance, the Fiscal Year 1992 statement of agency objectives did not include any reference specific to Instructional Television, even though instructional programming is one of the stated missions of MAET's enabling legislation (MISS. CODE ANN. Section 37-63-1).

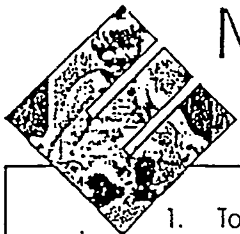
- None of the statements of MAET objectives and goals prepared for Fiscal Year 1992 and Fiscal Year 1993 are measurable.

An agency with a broad statutory mandate such as that given to MAET bears a considerable responsibility to determine the scope and substance of services it will provide. Provisions of law noted above make it clear that the board has broad authority in the field of programming the station and in preparing instructional television, with the latter being restricted only by a requirement that the Superintendent of Education approve the agency's instructional television programs. An agency such as MAET must formulate a firm conception of what it is to provide users and potential users and how to provide these services.

To carry out its responsibility of determining what services it should produce, an agency should devise a mission statement, goals and objectives which direct the agency's efforts. Developing missions, goals and objectives is a function of the strategic planning process. Strategic planning has been defined as a continuous process of making systematic risk-taking decisions, organizing steps needed to carry out these decisions, and measuring the outcomes against goals through the creation and implementation of systems to report agency outputs. This process tells the agency how it should direct its resources into various activities.

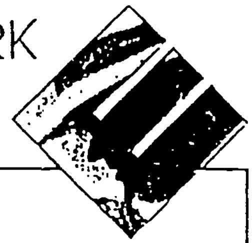
Board minutes show that agency staff have given the board members lists of agency objectives, but do not document any board interest in critical elements of strategic planning, aside from the one reference made in the July 1992 minutes regarding the need of a mission statement. The agency has been working since autumn 1992 to devise divisional mission statements, and has also initiated a network utilization study. The latter will help the agency understand how teachers make use of the network during daytime instructional television broadcast times. Both efforts are steps in the direction of developing the strategic planning an agency such as MAET should have.

Exhibit 12



MISSISSIPPI EDUCATIONAL NETWORK

FY1992 OBJECTIVES



1. To support and implement the National Education Goals.
2. To enhance the standing of MAET as a member of the state's educational community.
3. To increase the use of public television and radio services.
4. To strengthen our ties to the community and to provide our network services to tie the state together.
5. To increase the quantity and quality of public television and radio promotion for individual programs and series.
6. To increase revenue from traditional sources (state, federal).
7. To identify and exploit new sources of revenue.
8. To operate more effectively and efficiently with available resources.
9. To develop high quality radio and television programming for a national audience that will showcase the value of Mississippi's culture to the rest of the country.
10. To make MAET a better place to work through improved communication, project planning and providing career growth opportunities through challenging projects.

Agencies which fail to produce strategic plans with mission statements, goals, and measurable objectives generally do not have a formal structured system to guide their activities. As a result of this weakness, the MAET board does not have any formal method for resource allocation, and has no way of knowing how the agency's programs are performing. Further, the lack of planning explains why many of the problems cited in this report have arisen. For instance, the unplanned and arbitrary decisions to acquire equipment, the failure to adhere to budgets for certain programs, and changes in funding emphasis for programs without board approval can be attributed to the lack of any strategic vision for the agency.

-- *During the past three fiscal years, MAET managers have changed the funding emphasis and decreased instructional spending without obtaining the board's input or approval.*

PEER analyzed the trends in funding for the various divisions from fiscal years 1990 to 1992. MAET managers had changed the funding emphasis for certain agency programs without obtaining the board's input or approval. From reviews of MAET Board minutes during that period and discussions with the MAET Board Chairman, PEER determined that MAET management had never discussed those changes in funding with board members and that management did not obtain board approval. Consequently, the board could not oversee the agency in accordance with MISS. CODE ANN. Section 37-63-1 (1972).

Changes in Funding Emphasis--During the period FY 1990 to FY 1992, MAET reduced overall funding of general and special funds to instructional television programs in the Distance Learning Division (which serves schools directly) while increasing funds to the Production and Public Radio divisions, which have traditionally focused more on adult or entertainment programming.

As shown in Exhibit 13, page 32, from fiscal year 1990 to 1992 funding for the Production Division increased by 35% while the Radio Administration Division budget increased 30%. The Production Division moved from the fourth-largest program to the third-largest program during the period. In contrast, the Distance Learning (instructional TV) division moved from the second-smallest to the smallest divisional program, replacing the Radio Division, which had been the smallest program in fiscal year 1990. Distance Learning suffered the sharpest decrease in funding on an agency-wide basis of 28%. The shift in funding between divisions occurred during a period when overall general and special funds decreased by 6%.

Exhibit 13
Trends in MAET Division Expenditures

	FY 1990	FY 1991		FY 1992		% increase
	Amount	Amount	Percent Increase	Amount	Percent Increase	over two years
DIVISIONS:						
General and Administration	$2,434,768	$2,119,232	(13%)	$2,094,488	(1%)	(14%)
Distance Learning (Instructional Television)	500,827	400,844	(20%)	359,770	(10%)	(28%)
Engineering - TV and Radio	1,693,208	1,675,773	(1%)	1,386,992	(17%)	(18%)
Radio Administration	341,754	463,129	36%	442,737	(4%)	30%
Programming and Promotion	1,023,760	764,962	(25%)	1,040,185	36%	2%
Production (Television)	821,481	1,102,155	34%	1,107,511	0%	35%
Total Operating Expenditures	6,815,798	6,526,095	(4%)	6,431,683	(1%)	(6%)
Total Operating Expenditures Excluding the Production Division	5,994,317	5,423,940	(10%)	5,324,172	(2%)	(11%)
Equipment Grant		932,887	N/A	1,281,809	N/A	N/A
Total Appropriations	$6,815,798	$7,458,982	N/A	$7,713,492	N/A	N/A

NOTE: In Fiscal Year 1992 MAET adjusted its operating budgets to include some fixed costs related to divisions into the general and administrative division budget. For purposes of comparison Fiscal Year 1990 and 1991 numbers in this chart are adjusted to reflect MAET's 1992 method of classification.

SOURCE: Financial records of the Mississippi Authority for Educational Television business services division

MAET's appropriation bill contains language that highlights the importance of the MAET Board's involvement in deciding the emphasis of various programs at MAET. Chapter 127, *Laws of 1991*, include special language restricting the use of general fund monies, as follows:

> *Funds appropriated herein shall first be used for the continuation of a full and complete broadcast schedule of educational and instructional, professional growth, and public service programs, with the production of new films and programs to be secondary thereto.*

The language in the appropriation bill addresses the actual broadcast schedule as opposed to funding by division. PEER did not judge whether the current and past MAET broadcast schedules were full and complete based on the subjective and artistic criteria required for such a judgment. However, MAET may have violated this statement of legislative intent by increasing funding to the Production Division by 35% while decreasing the funding to all other divisions by 11%, as shown in Exhibit 13. Reducing expenditures for instructional television programs could have made the broadcast schedule less "full and complete" (see sections below). Because of this language in the law, the MAET Board should review the broadcast schedules set up each year by MAET management, agree on criteria used to judge the adequacy of the programming, and come to a consensus as to the completeness of the broadcast schedule.

Lack of Board Involvement--A change in MAET management priorities resulted in a different emphasis in funding within the agency. However, MAET management in effect did not present this important change in position to the board, because they presented financial statements and budgets to the board which did not show the changes in divisional budgets from year to year. Board members would not have seen the changes in emphasis unless they had collected divisional budgets over several years and then analyzed the changes.

In addition, MAET minutes did not reflect that the board asked questions which would have led to a discussion of funding priorities within the agency. The board also did not require management to present operating budgets for board approval. Over the past three years the MAET management solicited board approval for budget requests to the Legislature but did not ask for approval of budgets based on actual appropriations received.

Reduction in Funding for Instructional Programming--The change in funding at MAET resulted in a large decrease in funding to the Distance Learning instructional division and large increases in funding to the Production and Radio divisions. The effect during fiscal years 1990 to 1992 was a change in mission away from focusing resources for educational

opportunities for children and toward programming for adults. PEER also found evidence of a reduction in broadcast scheduling for instructional television for children from 1991 to 1993. For instance, in FY 1991 MAET offered 152 instructional programs for schools to use in instructing children in kindergarten through twelfth grade. But in Fiscal Year 1993 MAET offered only 122 instructional programs to schools due to a reduced budget for the instructional division. Amounts paid for instructional programming dropped from $217,306 in Fiscal Year 1991 to a projected $77,519 in Fiscal Year 1993, as shown in Exhibit 14, page 35.

Although the bulk of productions have been geared toward adults, in fiscal years 1991 and 1992, MAET production personnel worked on a federally funded grant, "You've Got That Right," which instructed high school students on the Bill of Rights. In Fiscal Year 1993 the production division also developed programming to benefit children and teachers directly. MAET received a $122,000 grant for producing a comprehensive health course for children and began developing a series for teachers entitled "The Creative Child." As a result, production personnel whose salaries are funded by the state have been utilized in the area of instructional television. Although increases to the Production Division in recent years have reflected a shift away from programming for students (programs which were normally purchased by the Distance Learning division), the Production Division can be used for children's productions and now appears to be producing more children's programming.

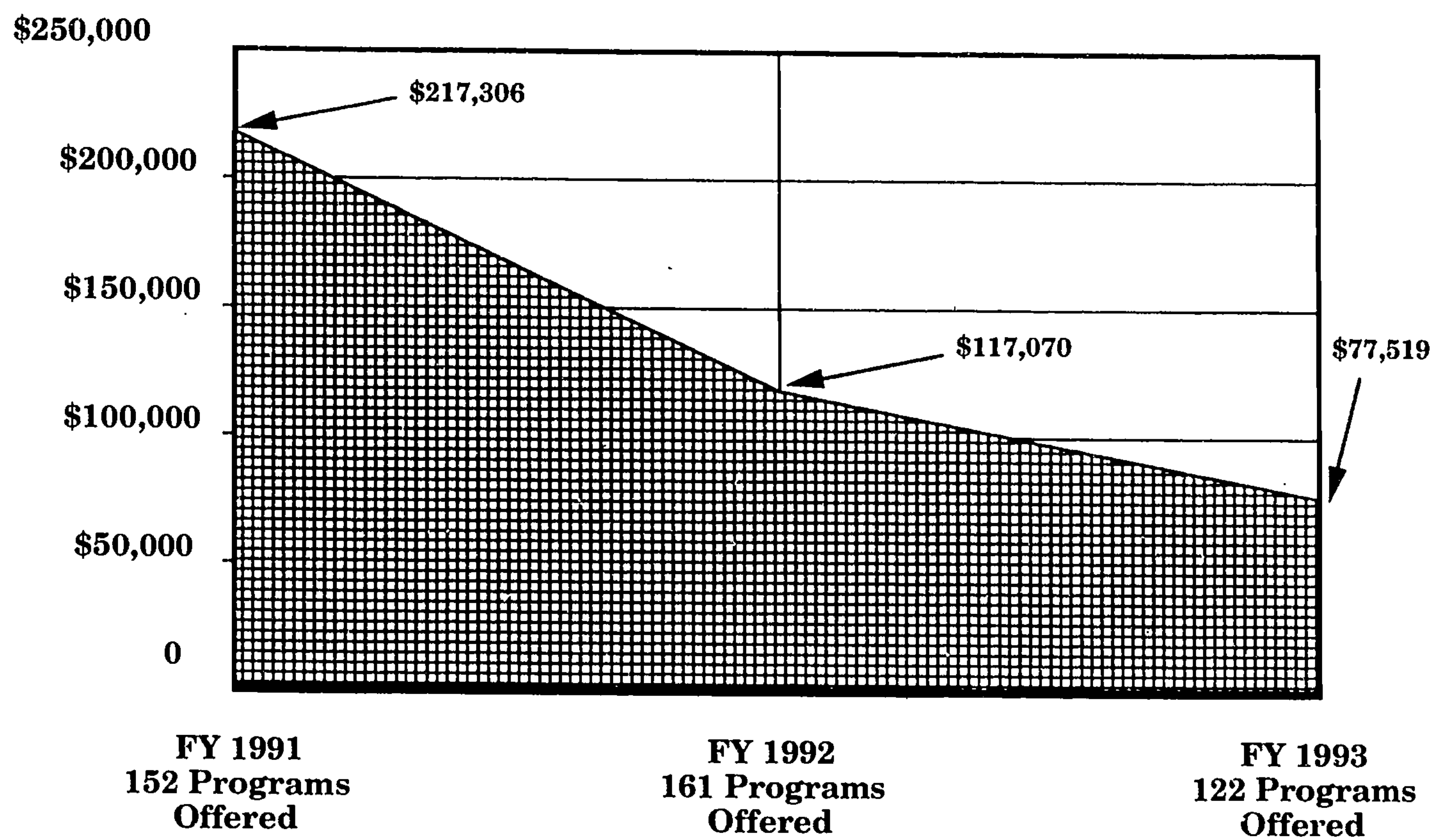
MAET can use personnel in various divisions in numerous ways to promote quality programming and productions for Mississippians. However, PEER found that the MAET Board does not oversee the administration of these programs and fulfill legislative intent, including the focus and funding for each of the agency's programs and the amount of time spent by personnel in various types of programs. Because of the role that educational television can play in improving education in the state, in future the MAET Board should be involved in focusing the mission of MAET through monitoring funding and other aspects of the programs.

Recommendations

1. The MAET Board should, in conjunction with agency managerial staff, develop a strategic plan for the agency. This plan should define clearly the agency's mission in light of MISS. CODE ANN. Section 37-63-1 and 37-63-13. Further, the plan should include detailed statements of agency goals and objectives with measurable performance indicators by which the agency's planned performance can be evaluated. Annually, the board and managerial staff should review measured achievements of the agency for the purpose of determining how well the agency has performed. When failures are identified, the board and agency should determine the cause of these failures and draw

Exhibit 14

Changes in Instructional Television Programming Costs for Fiscal Years 1991 to 1993



SOURCE: Records of the Mississippi Authority for Educational Television

conclusions as to how these deficiencies can be corrected through such means as internal reorganization, shifts in human and material resources, or any other corrective action the board deems appropriate.

2. The MAET Board should instruct the MAET General Manager to resume MAET's prior practice (which was discontinued in 1991) of presenting total expenditures by division, including salaries, in a financial report. The reports should also outline general and special funds by division. This will enable the board to understand where general fund and special fund dollars are being spent.

3. The MAET Board should review MAET's budgets and expenditures by division and sources of funds over several years to understand the decreases in state funding for instructional television and other divisions in relation to the increases in state funding to the Production and Radio divisions.

4. The MAET Board should become familiar with language in state law, including enabling legislation and appropriations bills, specifying legislative intent for operation and funding of the agency (e.g., MISS. CODE ANN. Section 37-63-1 [1972] and any restrictive language which may in the future be inserted into appropriation bills reflecting purposes for which MAET may expend funds, for example, Chapter 127, *General Laws of 1991*). The board should then oversee MAET management to ensure adherence to state laws.

5. The MAET Board should review the broadcast schedules set up each year by MAET management, agree on criteria used to judge the adequacy of the programming, and come to a consensus as to the completeness of the broadcast schedule. In order to judge the adequacy of programming, the board should become familiar with the programs offered by the various divisions. Specifically, the board should study the number and types of instructional programs which have been offered to schools over a period of years.

6. The MAET Board should also review the projects undertaken by the Production Division and compare trends in the production expenditures and programming expenditures and the products being obtained for the Mississippi audience.

7. The MAET Board should use the Production Division's budgeting system for "in-kind services" to determine how much of production personnel time is used in various programs, such as instructional television, public affairs and special projects, in order to understand better how the resources of the agency are used.

<u>Project Budgeting</u>

-- *For two agency productions, "Return to the River" and "You've Got That Right," MAET managers varied from agency practice and failed to establish and/or adhere to production budgets, resulting in excess costs of $270,166 on those productions.*

MAET routinely compiles budgets for production projects which are funded by both state special funds and Foundation funds. Ongoing production budget monitoring is good management practice and, according to MAET staff, is routine among film producers in the private sector. At MAET, production managers set budgets for projects at the beginning of each fiscal year for projects to be funded with MAET funds and for those to be funded with Foundation funds.

To determine MAET's adherence to budgeting procedures, PEER compared MAET production budgets to actual expenditures for fiscal years 1992 and 1993. (PEER did not analyze records in earlier years because MAET could not provide complete prior year records.) In Fiscal Year 1992 MAET stayed within all budgets except for "The River" and "You've Got That Right." For the first ten months of Fiscal Year 1993, MAET had exceeded some small budgets by minimal amounts. However, on an overall basis for July 1992 through April 1993, MAET was substantially under budget for the combined total of all productions funded by both MAET and the Foundation.

MAET's problems with production costs lay in its ignoring established budgeting procedures for two local production projects, "Return to the River" and "You've Got That Right." MAET executive management failed to follow proper budgeting procedures due in large part to the former Executive Director A. J. Jaeger's direct control over the "Return to the River" and due to poor planning for "You've Got That Right." As a result, "Return to the River" exceeded its original budget by $241,972, including direct costs overruns of $115,382 and in-kind services of $126,590. (In-kind services consist of the value of MAET employee time spent to produce the documentary based on salary cost per hour and the value of MAET equipment used to produce "The River" based on the cost of renting that equipment in the marketplace.) "You've Got That Right" exceeded its budget with direct cost overruns of $28,194, for total excess costs on the two productions of $270,166.

"Return to the River": Direct Cost Overruns of $241,972--MAET exceeded its budget by $241,972, including $22,498 in personnel time paid by state appropriations ($8,880 in production personnel time and $13,618 in post-production time; see Exhibit 15, page 38.) For "Return to the River" MAET employees prepared an initial "cost breakdown" of $75,035 in direct costs as

Exhibit 15
Comparison of Original "Return to the River" Budget with Actual Expenditures

	Original Budget Early 1991	Actual Spent through May 1993	Amount over Budget	Source of Funding
Direct Cost	**$75,035**	**$190,417**	**$115,382**	Foundation
In-Kind Services: (a)	**55,170**	**181,760**	**126,590**	
Production				
MAET Personnel Time	18,000	26,880	8,880	State Appropriation
Value of MAET Equipment Time and Other	13,910	74,880	60,970	N/A
Post-Production				
MAET Personnel Time	5,582	19,200	13,618	State Appropriation
MAET Equipment Time	17,678	60,800	43,122	N/A
Total	**$130,205**	**$372,177**	**$241,972**	

(a) In-Kind services consist of the value of MAET employee time spent to produce the documentary based on salary cost per hour and the value of MAET equipment used to produce the River based on the cost of renting that equipment in the marketplace.

SOURCE: PEER analysis of Mississippi Authority for Educational Television and Foundation for Public Broadcasting in Mississippi, Inc., records

shown in Exhibit 15, page 38. The cost breakdown also included an estimate that $55,170 in "in-kind" services would be expended. In-kind services consist of the value of MAET employee time spent to produce the documentary based on salary cost per hour and the value of MAET equipment used to produce "The River" based on the cost of renting that equipment in the marketplace. MAET staff stated that this $75,000 cost breakdown never served as an official budget because the Executive Director did not require or even allow production employees to use a budget. One MAET employee in charge of producing "The River" stated that MAET management never informed him of the amount actually spent on the production until after Jaeger resigned. The MAET Director of Production stated that he had asked management for a copy of a budget for "The River" but had never received one.

This procedure was quite different from other productions, which had budgets which were monitored by their producers. MAET employees stated that the Executive Director had ordered excessive filming and editing of "The River," resulting in excess expenditures for video tapes and use of MAET employee time. MAET and Foundation records showed that the Foundation had spent $190,417 on "The River" production for out-of-pocket costs as of May 31, 1993, and at least $181,760 on in-kind services through April 1993. As shown in Exhibit 15, page 38, the total recorded direct and in-kind service costs of $372,177 exceeded the original cost breakdown of $130,205 by $241,972. Direct cost overruns alone which were financed by the Foundation exceeded original estimates by $115,382 through May 31, 1993.

In addition to the costs already incurred for the project, in May 1993, MAET production managers reassessed the project subsequent to Jaeger's resignation from MAET. These managers projected that the agency will have to expend $67,881 in direct costs and $55,587 for in-kind services in order to finish the project.

"You've Got That Right": Direct Cost Overruns of $28,194--For the production entitled "You've Got That Right," which cost $182,856 over a period of two fiscal years, MAET spent $28,194 in state special funds, in excess of the $96,123 originally budgeted for the project. The remaining $58,539 spent on the project was paid by a grant received by the Foundation which was also not factored into the original budget. MAET's General Manager stated that cost overruns on this project were due to poor planning because the project was the first of its kind undertaken by MAET. Other factors affecting the overrun include unnecessary expenditures of Foundation funds for meals for MAET employees. PEER found instances where MAET employees were reimbursed for meals at exclusive Jackson restaurants while they were working on productions on location in Jackson. It was not necessary to reimburse employees living in Jackson who were not traveling on agency business.

Conclusion--PEER determined from a review of MAET Board minutes that during A. J. Jaeger's employment at MAET, the MAET Board never discussed the cost of production projects or reviewed production budgets. If the MAET Board had exercised its responsibility to supervise MAET by asking management about the fiscal aspects of productions, some potential problems may have been avoided. The effect of management's failure to follow routine budget procedures resulted in $28,194 in excess expenditures from MAET special funds on the Bill of Rights production. Lack of proper budgeting procedures for "The River" resulted in direct costs exceeding original estimates by $115,382.

<u>Contractual Services</u>

-- *MAET managers do not utilize a formal needs assessment process to determine whether to employ consultants, nor has the agency implemented a formal contract monitoring system.*

For the purposes of this report, PEER characterized a "formal needs assessment process" as a written policy of the entity detailing specific criteria of assessment to determine whether to employ a consultant or utilize agency personnel for a particular project or assignment. PEER characterized a "contract compliance monitoring system" as a policy of the entity whereby progress of the consultant is periodically compared to measurable criteria of performance in a written contractual document. Consultant monitoring responsibilities must be given proper emphasis to ensure that the consultant performs as expected and provides a benefit to the agency. Although contracts for professional services are excluded from the competitive bidding requirements of Mississippi purchasing regulations, prudent management dictates that agencies follow certain standards and procedures when entering into contracts.

As of May 1, 1993, neither MAET nor the Foundation utilized formal needs assessment procedures to determine whether to employ consultants, although MAET entered into 111 personal service contracts during fiscal years 1988 through 1992. MAET personnel reported that MAET's General Manager determined the need for and approved all personal service contracts. It is customary in most state agencies for the Personnel Division to handle personal services contracts. MAET's Personnel Director plays no role in personal service contract procedures. Instead MAET's Purchasing Agent handles all personal service contract payments. MAET's General Manager stated that MAET is developing standard operating procedures for the procurement and monitoring of personal service contracts. At the time of this report MAET management did not apprise the MAET Board of the agency's use of consultants. In addition, management did not provide the board with a monthly report as to contracts entered into or funds expended.

The employment of a consultant should be carefully evaluated to determine a real need for the service and because such contracts are susceptible to extensive public scrutiny. Habitual use of consultants for the purpose of developing policies and plans mandated by the Legislature or regulatory bodies deprives an agency of valuable intellectual experience and causes the "absence of expertise" problem often cited as justification for hiring consultants. To ensure maximum benefit from consultants and realize substantial return on tax dollars expended, consultant needs determination must be exercised by agencies.

The absence of formal needs assessment procedures with measurable expectations severely limits any monitoring effort and jeopardizes any service or product which could be provided. Without a formal needs assessment process or contract monitoring system, MAET cannot insure that services provided by the contractors could not be provided by MAET staff or that the contractor is providing the desired services.

-- *MAET's former Executive Director, A. J. Jaeger, violated specific restrictive provisions contained in the agency's FY 1991 and 1992 appropriations by utilizing $42,941 of state funds for a personal services contract with John Sewell, who provided public relations services for Governor Ray Mabus's office. Further, MAET managers violated MISS. CODE ANN. Section 25-9-107 (c) (x) by renewing the Sewell contract prior to the State Personnel Director's approval of the renewal.*

MAET entered a contract for personal services with John Sewell beginning on December 1, 1989. MAET renewed this original contract three times, with the final contract expiring on June 30, 1992. Although Sewell actually received $42,941 in state funds for his services, the contracts provided that he could receive up to $64,584. Each contract called for Sewell to conduct general research and to prepare "talking points" for MAET's Executive Director in the following areas:

1. Instructional Television Fixed Services;

2. liaison with state agencies and the Governor's Office on weekly address and special presentation;

3. legislative presentations; and,

4. assisting with the public relations program.

In making its request for approval of this personal services contract to the State Personnel Director, MAET reported that the agency did not have a writer on staff with the capability to provide such services as thought to be provided by Sewell. In a letter to the Acting Director of the State Personnel Board, MAET's Executive Director gave the following justification and

funding sources for the contract: *"Contractual services are needed for coverage of our project to complete the Bicentennial Bill of Rights series for schools. The series has been funded by the Commission on the Bicentennial of the United States Constitution. . . .Compensation for the consultant services were awarded in grant funds."*

However, contrary to the justification given to the State Personnel Director, compensation for John Sewell's consultant services was not awarded in the grant awarded to MAET by the Commission on the Bicentennial of the United States. MAET personnel reported that Bicentennial Bill of Right funds were not expended on Sewell's contract. Sewell received $42,941 in MAET general funds for his services, rather than MAET special funds, as MAET's Executive Director reported to the State Personnel Board.

Although MAET compensated Sewell for services, the agency never received direct services from Sewell. MAET management could not produce documentation as to Sewell's completion of items one, three and four in his contract as outlined above. MAET employees and Mr. Sewell told PEER that Sewell never provided services for the Bill of Rights project nor any other MAET project. In addition, Sewell did not complete item two of his contract because, even though he wrote speeches for the Governor, he did so on behalf of the Governor's Office and not as a liaison with MAET. Mr. Sewell was even housed in Governor Mabus's Capitol offices. Sewell reported that the only MAET employee that he worked or corresponded with was MAET's Executive Director at the time, A. J. Jaeger.

MAET's expenditures for the contract with John Sewell conflict with language in MAET's appropriation bills and violate the Legislature's intent for MAET expenditures. In approving MAET's appropriation for fiscal years 1991 and 1992, the Legislature mandated that MAET personnel not provide public relation activities for any other state agency or officer. MAET's fiscal year 1991 and 1992 appropriation bills included the following language:

> *No part of the funds appropriated herein shall be transferred to, expended by, or used, directly or indirectly, for the benefit of any public relations, publicity or publication activities of any other state agency, department or officer, nor shall any personnel paid or equipment purchased with funds appropriated hereby be transferred or assigned to any other state agency, department or officer for public relations, publicity or publication activities of such office.*

Former Governor Mabus knew or should have known that MAET's expenditure of funds for a public relations contractor for exclusive use of the Governor's Office violated MAET's appropriation bills.

The contract also violated MISS. CODE ANN. Section 25-9-107 (c) (x) (1972), which states that ". . .any agency which employs state service employees may enter into contracts for personal and professional services only with the prior written approval of the State Personnel Director." MAET submitted its request for a renewal of Sewell's contract subsequent to entering into the contract. The State Personnel Director received MAET's request on July 17, 1990, although the contract called for Sewell to provide services July 1, 1990, through December 3, 1990.

This violation of legislative intent occurred because of MAET's lack of an adequate needs assessment and monitoring system of contractual services. MAET's top-level management determined the need for Sewell's services and requested State Personnel Board approval. MAET employees informed PEER that they were not even aware of Sewell's reportedly being an employee of MAET until a state plane trip docket appeared in the newspaper listing Sewell as an MAET employee.

<u>Capital Expenditures</u>

-- *MAET failed to plan and manage both the acquisition and installation of television equipment purchased from $2.4 million of bond proceeds authorized during the 1990 legislative session and the relocation of the agency's radio studio.*

To assist MAET in upgrading its broadcast and studio equipment, the Mississippi Legislature approved a $2.4 million general obligation bond issue for equipment during the 1990 session. When the Legislature was considering authorizing the issuance of bonds, the MAET Executive Director presented to the Legislature proposals for the acquisition of production equipment. These proposals had not been devised with the assistance of MAET technical staff.

While the resulting legislation did not specifically denote the equipment that was to be purchased with the bond proceeds, MAET used the funds to buy studio equipment, and to pay for construction or modifications necessary to integrate the equipment into the agency studios. While the agency was discussing equipment purchases to be made with the bond funds, other MAET personnel were in the process of developing plans for integrating the Public Radio in Mississippi (PRM) studio facility on Dunbarton Street in Jackson into the main MAET studio and office building on Ridgewood Road in Jackson. This move was effected without the use of bond funds and is discussed here because many of the problems confronted during the planning of the PRM move are similar in substance to those encountered during MAET's efforts to plan and acquire studio equipment authorized under the $2.4 million bond issue.

Acquisition of Equipment with $2.4 Million Bond Issue--Only after the 1990 Legislature approved the $2.4 million bond issue for MAET production equipment did the MAET Executive Director appoint an equipment committee. This internal committee consisted of MAET engineers and other technical experts. The former Executive Director, A. J. Jaeger, directed the committee to determine the equipment needs of the agency.

According to a consensus of MAET personnel involved in the equipment committee, the MAET Executive Director asked the committee to determine equipment needs without regard to construction necessary to house and operate new equipment. MAET management was primarily concerned with acquiring the equipment and postponed any planning for location and installation of the equipment.

As a direct result of this lack of planning, PEER identified equipment items with a total cost of $307,428 that have not been placed in service, including a D-2 digital video recorder valued at $57,479. This equipment was purchased primarily during the months of September, October and November 1992 and had been sitting in boxes for six to eight months up until PEER's inventory review on May 20, 1993. The delay threatens the agency's ability to get the equipment installed before the warranty dates expire in September, October and November 1993. This is significant because if the equipment is defective, the agency will not be able to get the equipment repaired if the discovery is made after the warranty expires.

As noted above, a new D-2 digital video recorder is included in the equipment still found in boxes. The Executive Director ignored the equipment committee's recommendations regarding the acquisition of three of these specialized recorders (also known as D-2's) at a total cost of $172,437. The equipment committee did not recommend the D-2 video tape recorders as a priority. However, the Executive Director overrode the decision of the equipment committee and ordered the purchase of the machines. PEER noted that two of the machines are in use while one remains in its original box.

Construction of the MAET Studio--As noted above, MAET did not begin planning for the installation of equipment until the summer of 1991 when the original plan, known as Plan 1, was developed. According to Sarah White, this plan was not approved by Jaeger until the summer of 1992.

In the summer of 1992, Jaeger changed the plan, which caused major changes in the size of the studio and the location of the post-audio facility. Making changes in the studio plans gave rise to critical problems regarding the installation of equipment. By making changes in the floor plan, the staff had to reconceptualize where and how equipment planned for purchase would be located and installed in the studio. Moreover, the staff had to rethink what construction and facility modifications would have to be made to accommodate the equipment in a redesigned studio. Further,

during the course of studio planning the Executive Director had a glass wall installed between the original post-audio area and the Art Department. This wall was removed by direction of the Executive Director, and then re-installed at a cost of $715.

Public Radio of Mississippi Studio Relocation--In interviews with MAET personnel directly involved in the planning of the move of Public Radio of Mississippi studios into MAET offices, PEER determined that the PRM move was first discussed on or about the beginning of August 1991. At that time, the MAET Executive Director directed MAET staff to devise a plan for relocating the PRM studios from the rented space on Dunbarton Street to the main MAET building on Ridgewood Road. During the course of staff planning for relocation, several events delayed implementation of the PRM move. These events are outlined below and in Exhibit 16, page 46.

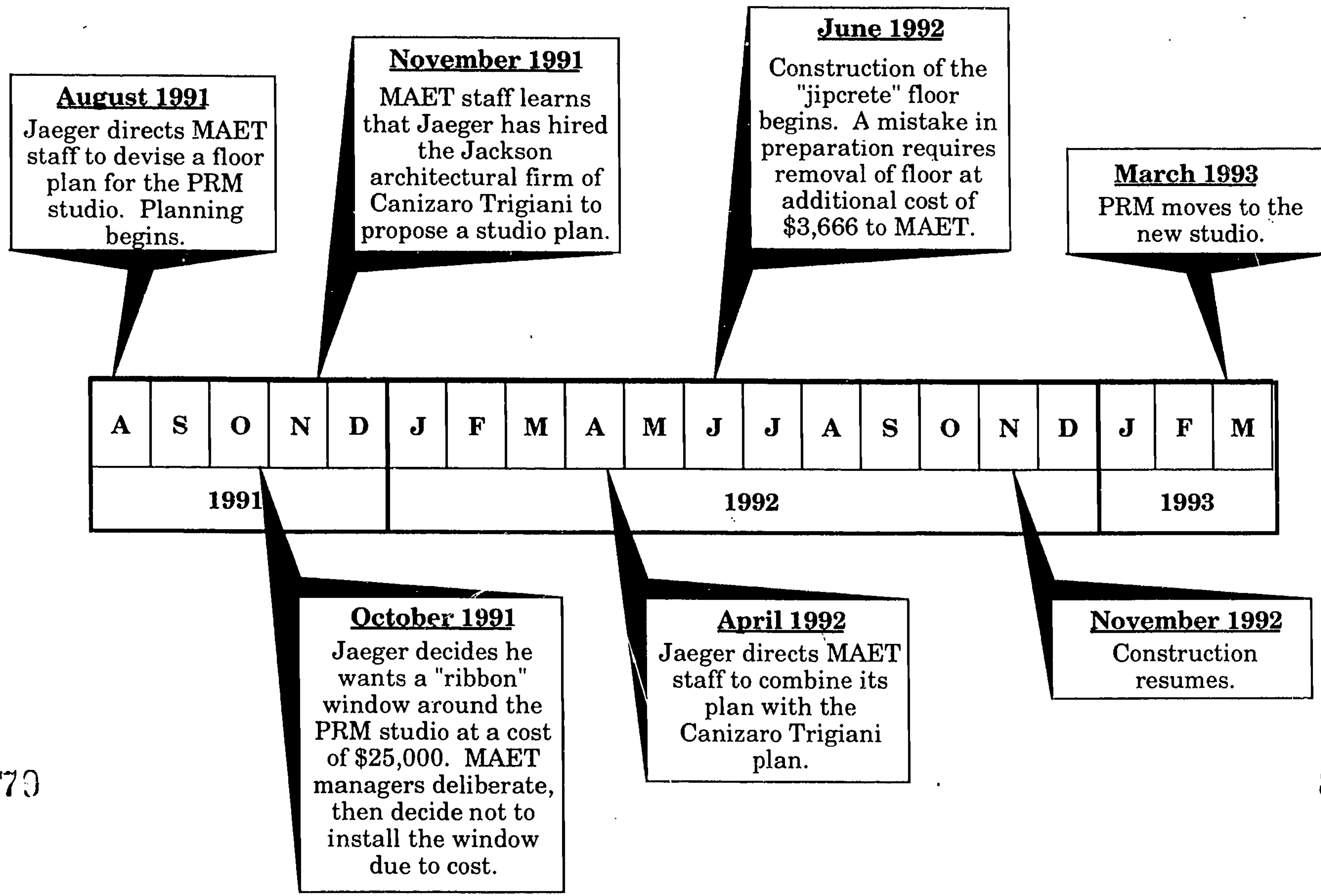
- MAET management obtained the assistance of an acoustics expert from the University of Mississippi to study the sound characteristics of the proposed facility location. However, the specifications MAET developed for the studio were actually more demanding than those the University of Mississippi professor developed.

- MAET staff noted considerable indecision on the part of MAET management as to how and what exactly to plan for the studio. Around October 1991, Jaeger decided that he wanted a "ribbon window" around the PRM studio. According to engineering personnel, the ribbon window would have been acoustically inferior and would have cost $25,000 to install. A steel border around the window would have cost approximately $15,000. After being presented with the costs of this modification, MAET management decided not to install the window.

- The MAET staff completed the plan sometime in November 1991. At that time, MAET staff discovered that the Executive Director had engaged the services of the Jackson architectural firm of Canizaro Trigiani to develop a studio plan for PRM. To complete the studio as the architects conceptualized it would have cost MAET approximately $171,000, while the MAET staff plan would cost about $60,000. Around April 1992, Jaeger decided that the Canizaro Trigiani plan would cost too much. MAET personnel stated that at that point they were required to work with a combination of the Executive Director's plan and the rejected Canizaro Trigiani plan. According to MAET engineering personnel, Jaeger expected them to make use of the Canizaro plan where possible, but gave no direction as to the extent to which the plan should be used and for which architectural particulars the plan should be used. In effect, this resulted in no real plan at all.

Exhibit 16

Timeline: Relocation of Public Radio in Mississippi Studio



79

80

SOURCE: Mississippi Authority for Educational Television personnel and documents.

- By June 1992, MAET construction planners began to prepare space in the MAET building for the PRM move. This early preparation consisted of pouring a floor for the new PRM studio. This floor was made of "jipcrete," a lightweight concrete which was to be poured over electrical conduits. When the pouring of the floor occurred, the MAET staff person principally responsible for overseeing the studio construction wanted to be available to supervise the activity. However, he was told by the MAET Executive Director to go to a wireless cable convention despite the concerns raised by the employee about the necessity of overseeing the pouring activity. When the floor was poured, the "jipcrete" leaked into the electrical conduits. As a result, the floor had to be taken out and the conduits cleaned out. The original cost of pouring the floor was $2,989. Repair of the flooring and sealing of conduits cost $3,666, resulting in a total cost of $6,636 for a $2,989 project.

Completion of the original staff plan for the new studio space occurred in November 1991. Assuming that the staff's estimates on construction and moving time were correct, the relocation could have been completed by February 1992, one year sooner than the move was actually effected. However, the management indecision, changes and delays discussed above cost time, caused frustration, and delayed implementation of something which could have saved the agency money.

According to MAET personnel, the move of the PRM studio would save agency funds used to pay rent on the Dunbarton Street studio facility and would eliminate duplicative support services such as telephone and reception functions, since PRM would be located in the central MAET building along with the rest of the agency's operating units. Net rental cost of the former PRM studio on Dunbarton Street was $2,362. [This net is derived from the total payment per month of $2,692.17 per month plus $199 in janitorial minus $330.30 paid by the Real Estate Commission for PRM space that it used.] If MAET personnel assertions are correct (that the construction and move could have been made in four months and that the original MAET staff plan could have been used), the PRM move could have been made in March 1992 rather than March 1993. This would have saved the agency approximately $28,344.

Fundamentally, the efforts of the MAET staff in planning for the acquisition and installation of $2.4 million in equipment and in planning and executing the relocation of the PRM studios are similar to problems in the field of manufacturing project management and planning. This is such because both feature a series of discrete tasks which must be ordered properly based on goals and timetables for project completion. Fundamental prerequisites of project planning and management require that there be a project manager who does the following:

- conceptualizes how to achieve a particular goal,

- defines the things needed to carry out the project,

- acquires the articles needed to complete the project.

A review of the occurrences with respect to MAET acquisition and construction projects shows that these activities were not carried out by any particular person or persons who had the authority to plan and manage the agency's projects. With regard to equipment purchased with the $2.4 million bond issue, MAET officials carried out the acquisition of equipment before planning equipment placement and the studio construction necessary to place the equipment into use. This is a case of doing first what should have been done last.

MAET management's failure to require comprehensive planning of all activities related to the PRM move, coupled with changes and indecision regarding the proper plan to use and the specifications for the facility, resulted in unnecessary delays in the relocation, additional rent costs to the agency, and repair costs to a concrete floor.

-- *MAET management does not adequately control and account for the agency's equipment inventory.*

The Office of the State Auditor conducted a routine property audit of MAET during May and June 1992. During its initial audit, the Office of the State Auditor was unable to locate 850 items with a total cost of $1.7 million. Subsequently, the Office of the State Auditor conducted follow-up audits and located all but thirty-six items with a total cost of $24,885. (See Exhibit 17, page 49, for a list of missing items.) MAET reported the items to the Jackson Police Department as missing. Officials with the Office of the State Auditor stated that such a large write-off of equipment is significant in relation to other Mississippi state agencies.

MAET does not maintain a perpetual inventory record of its equipment inventory. Instead the MAET Property Officer relies on inventory records maintained by the Office of the State Auditor. The MAET Property Officer reports additions and deletions to the Office of the State Auditor and relies on that agency to produce updated perpetual inventory records for MAET. The MAET Property Officer also relies on the Office of the State Auditor to conduct an annual inventory count of MAET equipment.

The MAET Property Officer relies heavily on each division to account for equipment assigned to that division. The Property Officer rarely spot-checks equipment inventory within the divisions and does not document such checks if and when they occur. If a division wishes to dispose of equipment, it merely notifies the agency property office regarding intent to dispose of such equipment. The MAET Property Officer does not document

Exhibit 17
List of MAET Equipment Losses
Fiscal Year 1992

Item	Cost
Video Monitor	$425
Cassette Player	200
Battery Power Supply	161
Video Processor	3,360
Slide Projector	172
Air Alert Receiver	170
Cassette Recorder	238
Cassette Recorder	200
Cassette Recorder	172
Cassette Recorder	190
Sound Tape Recorder	3,846
Video Tape Recorder	1,135
Video Tape Recorder	1,150
Video Tape Recorder	1,955
Videocassette Recorder	1,117
Videocassette Recorder	796
Videocassette Recorder	796
Reflectometer	1,694
Scaler	545
Color Television Set	451
Portable Television	380
Portable Television	380
Transceiver	160
Headphones	150
Headphones	150
Volumax Amplifier	508
Side Band Analyzer	2,708
Slide Cabinet	103
U Electronic Flash	128
U Electronic Flash	128
Gauge	419
OHM Volt Meter	140
Microphone	139
Microphone	128
Distribution Modulator	195
TV Monitor	300
Total	**$24,885**

SOURCE: Mississippi State Department of Audit

the necessity nor the reasoning for such disposals, but rather relies on the respective MAET divisions. As such, the MAET Property Officer's primary function is clerical rather than an active oversight function to assure that equipment is properly recorded and accounted for.

Establishing and maintaining an internal control structure is an important management responsibility. With regard to property and equipment, management should strive to assure that transactions are properly authorized, recorded, and verified. Management can move toward such assurance by requiring that all property and equipment transactions be documented to reflect that such transactions have been authorized, recorded and verified. Another basic element of internal control is the comparison of recorded assets with actual assets (physical inventory counts). The level of control that management should establish over property and equipment depends on the nature and amount of property and equipment owned by the entity. Because MAET's property and equipment ($16.7 million) represented 83% of total assets ($20.3 million) as of June 30, 1992, MAET's risk of loss due to insufficient inventory control is significant.

The MAET Property Officer developed a set of equipment policies and procedures in January 1993; however, the MAET Board has not authorized the policies and procedures. In the past, MAET management has not emphasized the importance of inventory control; therefore, agency personnel have tended to be lax regarding control measures such as tagging, verifying and documenting equipment inventory transactions.

As stated above, MAET reported $24,885 in missing equipment subsequent to a June 1992 property audit by the Office of the State Auditor. MAET had difficulty in locating all of its property and equipment during the property audit. MAET's large equipment inventory coupled with its poor system of inventory control continues to create a significant risk that equipment losses may occur and not be detected in a timely manner.

<u>Recommendations</u>

Production Budgets

1. MAET management should report project budgets to the board routinely, such as quarterly or semi-annually, including budget and actual expenditures and revised budget amounts.

2. The Foundation and MAET boards should develop guidelines for the types of expenditures which can be made out of Foundation and MAET funds for production projects, especially for local meals and entertainment for MAET employees.

3. MAET employees should continue to refine the agency's recently adopted production project budgeting system based on cost accounting

principles and include the projected cost of MAET employee and equipment time.

4. In the instances when project budgets exceed more than one fiscal year, MAET employees should also develop a routine practice of reporting to management a budget which spans several years and shows amount spent by fiscal year. Currently budgets used by management are separated by fiscal year and do not give a clear picture of the total spent over the long-term life of the project.

Consultant Services

5. MAET and the Foundation should adopt the following guidelines when considering contracting with an individual or firm to provide consultant services. These formal guidelines are intended to assure that MAET and the Foundation receive a service that will be in the best interest of the state at a cost that is fair and equitable.

   Needs Assessment: The first step in contracting for consultant services is assessing the need for the service. The purpose of needs assessment is to ensure that the employment of a consultant is necessary to achieve overall goals and objectives of MAET and the Foundation. MAET should develop written policies to be used in determining the need for a consultant. These policies should require that a document be produced to include the following components:

   1. Specific details on the consultant services to be provided;
   2. Intended benefits to MAET;
   3. Reason why the entity cannot perform the service itself;
   4. Detriments that would result if the consultant services were not rendered;
   5. Urgency of the service; and,
   6. Justification for the claim of a sole source consultant.

   Requests for Proposals: After MAET establishes that the consultant's service is needed, requests for proposals should be solicited from individuals or firms that may be interested in providing the service. MAET should provide enough information concerning the needed service to allow the consultant to judge his or her ability to meet the need. Proposals submitted to MAET for consideration should include the following information:

   1. Details concerning the proposed service to be provided;
   2. Cost information;
   3. General information about the individual or firm;
   4. Past experience with similar services;
   5. References; and,
   6. Timetable.

Requests for proposals should require information that can be used to evaluate the relative strengths and weaknesses of each.

Review Committee: MAET should establish a staff review committee to examine and evaluate each proposal received. The committee should establish written criteria on which to evaluate and review each proposal in an effort to recommend the one which would be in the best interest of MAET and the state.

In presenting its recommendations to MAET's Executive Director and the MAET Board, the review committee should enumerate the reasons for advocating one particular proposal over the others. If the recommended proposal is not the least expensive, documentation should be provided that justifies the additional expense. Furthermore, MAET must substantiate any claim that the consultant is a sole source.

Submission to Approval Authority: MAET must submit all required information concerning the proposed consultant service contract to the State Personnel Board, for contracts to be paid with state funds, and to the Foundation's board for those contracts to be paid by the Foundation. Approval should be obtained before any contractual work begins.

Written Contract: After approval is granted, the Foundation will notify the individual or firm whose proposal was selected. A written contract must be signed by both parties in order to validate the consultant agreement. In addition to the specific terms of the consultant services to be provided, the contract must contain the terms of compensation, timetable and any other pertinent information. A copy of the validated contract must be sent to the Department of Finance and Administration or to the Foundation, depending on whether state funds or Foundation funds will pay for the services.

For consultant contracts that will take more than two months to complete, the contract will contain a requirement for the submission of periodic updates containing information concerning the status of the contract, any special problems encountered, adherence to the agreed timetable and other information deemed proper by MAET.

Contract Monitoring: MAET's Executive Director should appoint MAET's Personnel Department to monitor the consultant's progress in fulfilling all terms of the contract. A monthly report on the status of all contracts, including those paid with Foundation funds, should be made to MAET's board. The monitoring should verify all information submitted by the consultant in the periodic updates (if required). Furthermore, if progress payments are allowed in the contract, the Personnel Department should verify that the payment is warranted based on the degree of completion of the contract.

Post Assessment: After the consultant's project has been completed, the department head of the requesting department should prepare a final report to MAET's Executive Director and Board, giving specifications of how the end product was utilized. The final report should state how helpful the end product was in reference to the expectations of MAET. This final report should be given to another department, preferably the accounting department, which will test the effectiveness of the end product by comparing the consultant's proposal with the end product. Then the end product should be compared with the final report written by the department head to evaluate the utilization of the end product.

6. The State Auditor should review the MAET payments to John Sewell and, if he determines that it is in the best interest of the state, make demand and, if necessary, bring suit against A. J. Jaeger under MISS. CODE ANN. Section 7-7-211 for spending funds contrary to the restrictions in the MAET appropriation.

Equipment and Construction Planning

7. In the future, MAET should plan comprehensively for the acquisition of equipment and any construction projects. Such planning should at a minimum consist of:

   - involving agency experts in the initial phases of designing the plan concept;

   - integrating all necessary activities into a plan, including estimating the costs of all activities needed to complete the project;

   - time-lining the planning to insure effective management of the acquisition and construction;

   - clearly defining project management responsibility;

   - arranging for a formal review of plans by top management which should be rendered at a certain time; and,

   - adherence to the plan unless unforeseen difficulties require modification or cancellation.

Inventory Control

8. MAET management should formally adopt policies and procedures to account for and control agency equipment. MAET should use the

policies and procedures already developed by the MAET Property Officer as a starting point and add policies that will:

- recognize that the function of the MAET Property Officer is more than a clerical function, and the position must be held accountable for providing adequate internal control over equipment through adequate recordkeeping and monitoring activities;
- require the MAET Property Officer to develop and maintain a perpetual inventory record of the agency's equipment inventory;
- require the MAET Property Officer to conduct periodic, unannounced inventory counts and inspections in the various departments of MAET;
- require the MAET Property Officer to conduct a physical inventory count of all agency equipment and reconcile the agency's perpetual inventory records to those of the Office of the State Auditor on an annual basis; and,
- require the MAET Property Officer to verify and document verification of the addition or disposition of any piece of agency equipment.

Compliance with Federal Law

-- *During fiscal years 1990 to 1992, the former MAET Executive Director duplicated and distributed at least 196 programs and tapes without permission from copyright holders, in violation of federal laws.*

MAET operates a tape dubbing center which tapes PBS and MAET programs and for a fee sends them to schools in the state. Although the programs are copyrighted, PBS allows member stations such as MAET to tape programs within certain periods after programs are broadcast for the use of schools or in-house MAET personnel. MAET program directors request PBS airings for internal agency use and previewing. The dubbing center receives requests directly from schools and MAET program managers on dubbing request forms.

During FY 1990 through FY 1992, however, PEER found that the MAET Executive Director's office abused copyright laws by requesting taped programs to be used as gifts or for public relations. These requests for tapes of programs protected by copyright laws came directly from the Executive Director's office. Executive managers bypassed the normal process used by schools and MAET's program managers for requesting copies of tapes. MAET executive managers used special tape order forms specifying "priority" processing. In this way MAET managers gave a higher priority for this taping over the legitimate taping done for schools in the state.

In addition to dubbing PBS broadcasts improperly, MAET managers purchased copyrighted tapes and ordered MAET employees to duplicate the tapes, in clear violation of copyright law which prohibits duplication.

Sections 106 through 118 of Title 17 of the UNITED STATES CODE provide that, except under special circumstances such as the copying and rebroadcast of certain non-dramatic literary works on public television, no one may copy or distribute protected works without the consent of the owner of the copyright. Owners of a copyright could bring a civil action against MAET for damages under 17 USC 504 for actual or statutory damages.

All Public Broadcasting Service (PBS) member stations such as MAET sign station user's agreements which generally give the stations the right to receive and use for authorized purposes the PBS programs. PBS officials stated to PEER that member stations can make copies of PBS programs for their own broadcast and promotion use. However PBS does not allow other types of duplication to be made of its programs, which have copyright protection under federal laws.

Duplication center records show that at least 196 unauthorized tapes were made from February 1990 to March 1993. These records also show the executive offices forwarded eighty-three used tape cartridges to the duplication center in exchange for use of center tape stock. However, MAET records do not show that the executive offices ever replenished the duplication center's tape stock for 113 of the tapes copied for the Executive Director's use. At a cost of $2.73 to $2.86 per tape, MAET incurred at least $317 in unnecessary costs. MAET current and former employees also told PEER of other instances in which the director had ordered illegal tape dubbings for which no written records existed. Machine time and personnel time expended for improper tape dubbing could have been used to make dubs for schools and resulted in additional costs to MAET.

Recommendation

The new Executive Director and the MAET Board should draft written policies for tape duplication within MAET based on PBS rules and federal copyright law and require strict adherence at all times.

Supervision and Control of MAET's Relationship with the Foundation for Public Broadcasting

- ***The MAET Board has not effectively supervised and controlled MAET's relationship with the Foundation for Public Broadcasting in Mississippi, thus allowing MAET's executive management uncontrolled use of Foundation funds for agency operations and some questionable purposes.***

MAET Employees' Role in the Foundation

-- *Because MAET executive managers functioned as day-to-day administrators and policymakers within the Foundation during fiscal years 1990-1993, state funds were in effect used to manage the private foundation.*

Agency and Foundation records show that during fiscal years 1990 through 1993, MAET managers carried out day-to-day administrative duties within the Foundation and made policy decisions on behalf of the Foundation. A. J. Jaeger became president of the Foundation on October 30, 1989, after being named Executive Director of MAET in December 1988.

On December 1, 1989, A. J. Jaeger promoted Sarah White from the Foundation's Development Director to a deputy director for MAET. Instead of relinquishing financial and management responsibilities for the Foundation when becoming a state employee, Ms. White retained financial responsibilities for the Foundation. As a result, the Foundation management and financial responsibilities from December 1, 1989, forward were controlled by MAET employees. However, MAET's General Manager serving as administrator of Foundation operations violated Foundation bylaws which named the Director of Development to oversee the day-to-day operations of the Foundation. Because the MAET Executive Director and General Manager spent time during the day managing Foundation operations, state funds were used to pay for their time spent on these tasks. As noted in the finding on page 77, the Foundation paid A. J. Jaeger for performing some of his additional duties related to the Foundation. However, PEER documented that Jaeger received $3,207.89 as compensation from MAET for 113 work hours spent during forty-four workdays for performing Foundation-related duties. The state paid the $20,433 yearly salary of an administrative assistant working for the Foundation.

The management of the Foundation by MAET personnel occurred because the Foundation and MAET boards failed to set appropriate policies. The Foundation Board allowed MAET management to control the operations of the Foundation by granting broad authority and control to the President of the Foundation, who also served as MAET's Executive Director. In addition, the MAET Board set no rules for the way that the MAET Executive Director or employees could use Foundation funds.

Since PEER's initial review of MAET in March 1993, the Foundation Board has taken steps to create an arm's-length relationship between MAET and the Foundation. For instance, the Foundation no longer allows the President of the Foundation to appoint the directors of the board nor does it allow the General Manager of MAET to be involved in Foundation operations. In addition, an MAET administrative assistant who worked for

the Foundation retired from MAET and became a Foundation employee. The Foundation also disallowed MAET employees from signing Foundation checks. However, MAET and the Foundation should adopt additional steps for separation of the entities, as explained in the recommendations below.

MAET executive management used Foundation funds with little oversight by either the Foundation or MAET boards. As a result, as outlined in the following findings, MAET management used funds for questionable expenditures and spent funds for administrative items without informing Foundation donors. Donors were led to believe that funds would be spent primarily for programming and production, but most of the expenditures paid for administrative support of MAET.

Recommendations

1. The Foundation Board should change its bylaws to prohibit the MAET Executive Director from being President of the Foundation or serving on the Foundation Board.

2. The Foundation and MAET should enter into a contractual agreement outlining the working relationship between the two entities. The contract should include:

   -- types of expenditures which MAET employees can use for MAET operations;

   -- how the MAET Board will submit requests for funding to the Foundation Board;

   -- how budgets for Foundation funds will be set by the Foundation and conveyed to the MAET Board for use by MAET;

   -- all policies of MAET related to the Foundation and Foundation policies relating to MAET;

   -- requiring arm's-length involvement between MAET and Foundation employees.

3. The MAET and Foundation boards should consider setting up a system so that the Foundation awards "grants" to MAET for agency use as the Foundation intends. The Foundation should base its "grants" upon the stated needs of the agency as presented by the MAET Board.

MAET's Use of Foundation Funds

-- *During fiscal years 1990 through 1993, MAET managers had uncontrolled use of Foundation funds, resulting in expenditures for*

general MAET administration and other questionable expenditures rather than for programming expenses as represented to donors.

The MAET Executive Director appointed the General Manager of MAET operations, Sarah White, to be in control of Foundation budgeting and expenditures, even though this arrangement conflicted with Foundation bylaws. The MAET Executive Director and General Manager were also in complete control of setting the policy for expenditure and budgeting of MAET's state funds due to the MAET Board's lack of involvement in internal spending policy. This set of circumstances gave the MAET Executive Director and General Manager, Sarah White, virtually complete control over expenditures of both MAET and Foundation funds and set the groundwork for unwise use of Foundation funds. In effect, the MAET Executive Director and General Manager were able to use Foundation funds to supplement MAET funds in paying administrative expenses of the MAET executive offices and, to some extent, division offices.

According to Foundation personnel, until procedures changed on April 5, 1993, Foundation employees had no input into the making of Foundation funding decisions. Decisionmaking responsibility lay outside of the Foundation with Sarah White, MAET's General Manager, who had to "sign off" on all Foundation matters. Foundation employees reported to White on all matters.

Also, until April 5, 1993, Jaeger, as a member of the Foundation Board and its President, could sign checks along with Sarah White and Jean Stegall (a former Personnel Officer I who has since retired from the state and was hired by the Foundation). As of April 5, 1993, only Bill Pharr, Director of Development, two other Foundation employees, and the Foundation Board Secretary and Treasurer have check-signing authority. Sarah White, an MAET employee, no longer has authority over the Foundation's activities.

MAET management purchased goods and services with Foundation funds which the agency could not have purchased under state laws. As an example of wide latitude in Foundation spending, MAET management compiled budgets for only a portion of Foundation funds. The Foundation prepared FY 1992 budgets for only $355,223, although $1,021,095 was actually spent during that year. During this time the Foundation Board did not monitor the amount that was being spent on administrative costs, and the MAET Board did not request reports from the Foundation on the amount being spent on administrative costs. Because MAET managers had a large pool of money available which was not budgeted, they did not have an incentive to "live within their means" or spend prudently. MAET management chose to use unrestricted Foundation gifts primarily for administrative costs, rather than programming and production as had been touted to donors.

PEER reviewed Foundation fundraising records and determined that donors were not adequately apprised of the types of expenditures made with contributions. Fundraising literature sent to potential Foundation donors gives the impression that all contributions help support programming on MAET and PRM. Some letters to donors speak to specific programs which contributions help fund. Other letters sent to persons with lapsed memberships and possible Christmas gift givers describe the specific programs which contributions make possible. However, none of the letters state that the donations will support administrative costs of MAET offices. The effect of spending such a large portion of Foundation funds on administrative support for MAET is that Foundation members' donations may not have been spent as intended and that privately raised funds do not make the impact that they could on helping to provide educational programs to the state's citizens.

MAET management's flexibility in spending Foundation funds resulted in MAET administrative costs for:

- executive office expenditures, such as travel, supplies, meals, consultants, legal fees, and other administrative purchases;
- local meals for employees, parties, gifts and flowers;
- personal services contracts which did not contain accountability measures;
- administrative expenses of Mississippi EdNet Institute;
- books, travel and other items with inadequate recordkeeping to account for the purpose of the purchases. For example, in some instances, neither purchase requests nor invoices listed the titles of the books so that PEER could determine if the purchased books were still on the agency's premises. In addition, some travel requests did not list of the purpose of the trip.

<u>*Administrative and MAET Executive Office Expenditures*</u>

MAET executive managers used $1,049,912, or 84% of unrestricted Foundation funds, for administration of MAET and the Foundation during FY 1992 and nine months of FY 1993, including $254,216 for the MAET Executive Office--As stated in its corporate articles of incorporation, the Foundation for Public Broadcasting raises money to support MAET. In fiscal years 1992 and 1993, the Foundation spent monies for programming, productions, equipment and items restricted by donors, and administrative costs, as outlined below:

Programming and Productions:

-- Costs of producing programs locally at MAET to be aired on the Mississippi Educational Network and perhaps syndicated nationally. (The majority of funds spent are restricted to these projects by the donor.)

-- Broadcasting rights to purchase programming for MAET which is created by other regional or national networks and producers.

Administrative Costs:

-- Fundraising costs of the Foundation

-- Overhead costs for operating the Foundation

-- Administrative support costs of MAET

Other Costs:

-- Depreciation (no reduction in cash)

-- The Learning Store inventory costs

-- Equipment and other items restricted by the donor (excludes funds restricted for productions)

Exhibits 8 and 9, pages 18 and 19, show the Foundation's expenditures by project for Fiscal Year 1992 and nine months of Fiscal Year 1993. Exhibits 18, 19 and 20, pages 61, 62, and 63, show more detailed breakdowns of expenditures by type of expenditure and by project for the year 1992 and for nine months of 1993.

Each year the Foundation receives restricted funds which must be spent on certain items or projects as requested by the donor. For the twenty-one months ended March 31, 1993, the Foundation spent a total of $1,723,977. Twenty-eight percent, or $478,608, of the $1.7 million was spent from restricted funds. Unrestricted expenditures totaled $1,245,369 during the period.

Each year Foundation officials can use the unrestricted funds on a discretionary basis. In FY 1992 and 1993 MAET management imprudently used most of the Foundation's discretionary funds for administrative costs. From an analysis of unrestricted FY 1992 Foundation expenditures, PEER determined that MAET officials spent $587,464, or 82% of a total $717,513, for administrative costs rather than for programming as represented to donors. MAET management spent $462,448 of the total unrestricted

Exhibit 18
Foundation Expenditures by Type for Fiscal Year 1992

	PRODUCTION AND PROGRAMMING		ADMINISTRATIVE EXPENDITURES						OTHER			
DESCRIPTION OF EXPENDITURE TYPE	Production of Programs	Purchase of Programming	Foundation Fundraising	MAET Support - Executive Office Administration	MAET Support - Other Administration	Foundation Overhead	Support of Mississippians for Educational Broadcasting	MAET Program Guides	Expenditures for Purposes Restricted by Donors	Depreciation	TOTAL	Percent of Total
Advertising	$7,273		$442	$7,795	$7,194				$278		$22,982	2%
Automotive	332			5,243							5,575	1%
Bank & Bankcard Charges						3,191					3,191	0%
Business Promotions	8,680			6,074	493	55			243		15,545	2%
Conventions & seminars			682	995	784	1,513					3,974	0%
Depreciation										31,181	31,181	3%
Dues/subscriptions/fees	15,495		765	1,623	626	1,390		250	224		20,373	2%
Production Travel					399						399	0%
Entertainment - meals	289		309	2,302	1,873	105			307		5,184	1%
Insurance				5,143	6,099	2,709					13,951	1%
Interest				212		212					424	0%
Janitorial Services	285										285	0%
Health Insurance						7,206					7,206	1%
Labor - contract	166,878		4,616	41,204	2,752	541		200	64,062		280,253	27%
Equipment	11,011		154		(2,203)				11,620		20,583	2%
Legal & accounting	837			16,412		12,523					29,772	3%
Miscellaneous	196		137	428	3,441	1,329					5,530	1%
Office supplies	7		551	1,232		349		11	53		2,202	0%
Publications & books	118		157	617							892	0%
Postage			18,768	18		4,988		14,350	478		38,602	4%
Printing	3,235		36,180	1,384	930	4,214		46,331	1,560		93,834	9%
Rent	1,060					5,521					6,581	1%
Repairs/maintenance/fuel	205			225	45	928			159		1,562	0%
Maintenance contracts				742		742					1,484	0%
Retirement expenses						4,878					4,878	0%
Salaries			4,933		6,099	72,9[illegible]			3,502		87,488	9%
Supplies	1,331		35	3,446	1,077	197			345		6,430	1%
Supplies - computer	77		1,977	7,208	306	193			214		9,976	1%
Taxes - payroll						8,516					8,516	1%
Taxes - tags, licenses				233		50					283	0%
Telephone	3,779		3,937	6,315	96	1,016			3,025		18,168	2%
Travel - out of town	49,353		4,615	16,916	6,031	2,558			3,776		83,249	8%
Travel - local			11	20	463	25					520	0%
Prospecting list rental			7,584								7,584	1%
Training				14,265	950						15,215	1%
Production supplies	23,704			400	10,490				2,508		37,102	4%
Shipping	2,335		124	523	3,189	31			1,603		7,806	1%
Computer service			1,397	9,313	150	43					10,903	1%
Broadcasting rights	2,785	7,140							2,087		12,012	1%
Grant to MEB							99,400				99,400	10%
TOTAL	$299,264	$7,140	$87,374	$150,287	$51,283	$137,978	$99,400	$61,141	$96,046	$31,181	$1,021,095	100%
Percent of Total	29%	1%	9%	15%	5%	14%	10%	6%	9%	3%	100%	

Exhibit 19
Foundation Expenditures by Type for the Nine Months Ended March 31, 1993

	PRODUCTION AND PROGRAMMING		ADMINISTRATIVE EXPENDITURES						OTHER			
DESCRIPTION OF EXPENDITURE TYPE	Production of Programs	Purchase of Programming	Foundation Fundraising	MAET Support - Executive Office Administration	MAET Support - Other Administration	Foundation Overhead	Support of Missis-sippians for Educational Broadcasting	MAET Program Guides	Expenditures for Purposes Restricted by Donors	Learning Store Inventory	TOTAL	Percent of Total
Advertising	$4,411				$1,300				$19	$364	$6,093	1%
Automotive				4,059							4,059	1%
Bank & bankcard charges						2,762				73	2,835	0%
Business promotions	2,164		60	2,341							4,566	1%
Conventions & seminars			1,285	5,363		500					7,148	1%
Dues/subscriptions/fees	765		296	846	117	169			1,150		3,342	0%
Entertainment - meals	331		54	6,425	949	338			209	80	8,388	1%
Insurance	4,500			6,030		208			242		10,980	2%
Interest				286		285					571	0%
Janitorial services				25							25	0%
Health insurance						7,239					7,239	1%
Labor - contract	59,713		2,124	23,941	16,867	760		3,743	69,961	810	177,918	25%
Equipment	5,690			96	(2,269)	166			223		3,906	1%
Legal & accounting				22,709		10,487				102	33,297	5%
Miscellaneous	16		11		495	154					677	0%
Office supplies	20		138	158	43	537			18	338	1,253	0%
Publications & books	104			2,014		98			62		2,278	0%
Postage	14		18,471	65		3,747		11,267		458	34,022	5%
Printing	1,518		61,567	38	30	766		37,879		4,985	106,783	15%
Rent	488			550		5,201					6,239	1%
Repairs/maintenance/fuel				1,008						1,350	2,358	0%
Retirement plan expense						4,053					4,053	1%
Salaries			19,733		1,122	50,360				3,045	74,260	11%
Supplies	3,528		242	6,788	381	250			374	591	12,154	2%
Supplies - computer				2,298		189				6	2,493	0%
Taxes - payroll						5,915				67	5,981	1%
Telephone	1,214		2,575	3,793		886				604	9,071	1%
Travel - out of town	23,801		2,432	10,033	158	832			3,177		40,433	6%
Travel - local						48					48	0%
Sales tax expense										2,027	2,027	0%
Training				1,130	255	75					1,460	0%
Production supplies	18,132					165			1,754		20,051	3%
Commission			1,200								1,200	0%
Shipping	359		85	126	34	29			150	53	836	0%
Computer service			997	3,806		106				15	4,924	1%
Broadcasting rights	1,157	18,115							2,087		21,359	3%
Grant - MEB							78,555				78,555	11%
TOTAL	$127,925	$18,115	$111,270	$103,928	$19,482	$96,325	$78,555	$52,889	$79,425	$14,968	$702,881	100%
Percent of Total	**18%**	**3%**	**16%**	**15%**	**3%**	**14%**	**11%**	**8%**	**11%**	**2%**	**100%**	

Exhibit 20

Foundation Expenditures Categorized by Project

Productions	Fiscal Year 1992 Amount	Fiscal Year 1992 % of total	Nine Months Ended 3/31/93 Amount	Nine Months Ended 3/31/93 % of total
Return to the River	$29,753	3%	$46,393	7%
Mississippi Outdoors	30,132	3%	27,181	4%
Mississippi Masters:				
Richard Wright, writer	59,035	6%	12,871	2%
John C. Stennis, U. S. Senator	14,141	1%		
Overstreet and Overstreet, architects			6,834	1%
George Ohr, potter	11,018	1%	6,563	1%
Arthur Guyton, physician	2,308	0%	1,643	0%
Hodding Carter, writer and publisher			811	0%
Walter Payton, football player	166	0%	26	0%
International Ballet Competition documentary	56,699	6%	6,582	1%
Success Express	22,167	2%		
Mississippi Roads			6,453	1%
Mississippi Humanities (grant)	5,509	1%		
Public Education Forum			4,316	1%
ARTifacts	623	0%	3,895	1%
Bill of Rights production	57,086	6%	1,453	0%
Mississippi Speaks			1,129	0%
Sesame Street	8,292	1%	968	0%
Mississippi 2000	$2,337	0%	$767	0%
The Creative Child			30	0%
Together Forward			9	0%
Total Production Costs	**299,264**	**29%**	**127,925**	**18%**
Purchase of Programming	7,140	1%	18,115	3%
Administrative Costs				
MAET Administration:				
Executive Offices	150,287	15%	103,928	15%
Program Guides	61,141	6%	52,889	8%
Radio Division	10,443	1%	14,332	2%
Television Production Division	18,158	2%	3,063	0%
Miscellaneous	22,682	2%	2,087	0%
Foundation Administration:				
Foundation Overhead	137,978	14%	96,325	14%
Fundraising - Membership	78,060	8%	88,497	13%
Fundraising - Corporate Support	9,315	1%	22,772	3%
Support for Mississippians for Educational Broadcasting	99,400	10%	78,555	11%
Total Administrative Costs	**587,464**	**58%**	**462,448**	**66%**
Other				
Miscellaneous Expenditures Restricted by Donors:				
FiberNet Program	55,000	5%	55,000	8%
Production Fund	20,111	2%	23,608	3%
Public Radio in Mississippi (PRM)	7,513	1%	690	0%
Radio Reading Service of Mississippi	11,690	1%	127	0%
Other grants and donations	1,731	0%		
Depreciation	31,181	3%		
Learning Store Inventory			14,968	2%
Total Other Costs	**127,227**	**12%**	**94,393**	**13%**
TOTAL	**$1,021,095**	**100%**	**$702,881**	**100%**

expenditures of $527,855 on administrative expenses during the first nine months of Fiscal Year 1993, or 88%. The combined $1,049,912 in administrative expenditures occurring during both fiscal years 1992 and 1993 totalled 84% of unrestricted expenditures during the period. (See Exhibit 21, page 65.) The amount of unrestricted funds spent on administrative expenses is important because it signifies that MAET management used a very large portion of those funds over which it had discretion on administration. Administrative expenditures ($1,049,912) also made up a majority (61%) of both restricted and unrestricted expenditures ($1,723,977). (See Exhibit 22, page 65.)

Expenditures on non-production and non-programming items included support of MAET operations, primarily of the MAET Executive Director's and General Manager's offices, as shown in Exhibits 8 and 9, pages 18 and 19. These expenditures funded travel, supplies, meals, consultants, legal fees and other administrative purchases for the executive management offices. Support of the executive management offices totaled $254,216, or 15% of the total $1,723,977 spent during the two years, and 20% of the $1,245,369 in unrestricted expenditures made during this period.

MAET Employee Perquisites

MAET management uses the Foundation to fund MAET employee perquisites inconsistent with the Foundation's stated purpose of funding programs and productions--MAET management has used Foundation funds to purchase items for MAET employees which state law prohibits purchasing from public funds. As shown in Exhibit 23, page 66, the Foundation spent at least $19,233 on local meals, parties and entertainment over the fiscal years 1989 through 1993.

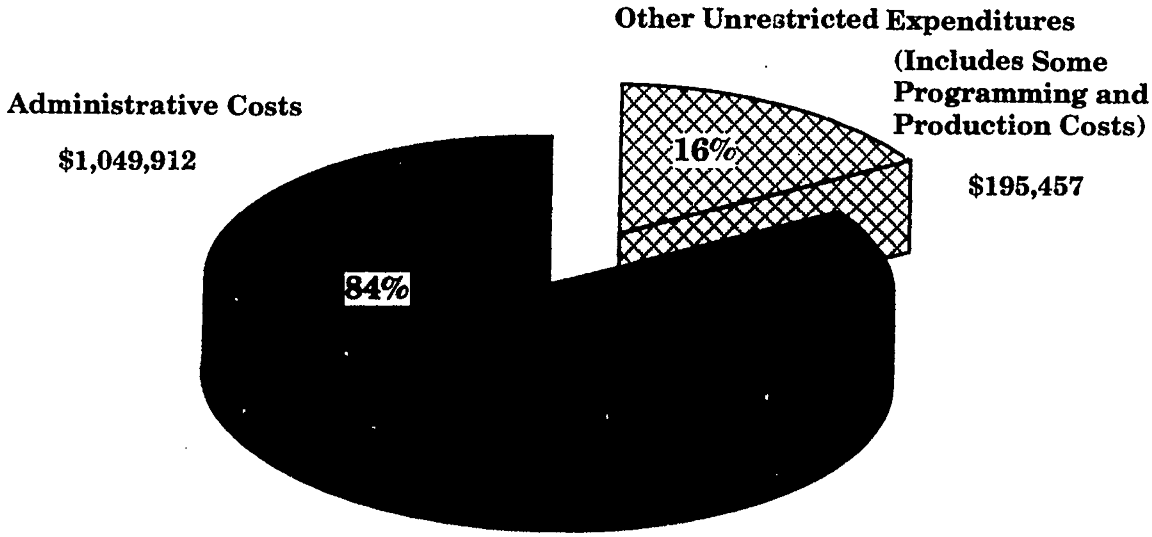
The Foundation spent at least $30,715 on employee moving and recruiting expenses, gifts, flowers and other items for a total of at least $49,948 in items listed in the chart. This list should not be considered all-inclusive of such items which may have been purchased by the Foundation. These items were not necessary for the production of programs for MAET. The list does not include meals purchased while employees traveled out of town for any purpose. The list includes meals purchased by MAET employees for themselves while in Jackson, staff lunches arranged by the Executive Director and General Manager, and sympathy and congratulatory gifts to staff members.

The Foundation has not developed complete guidelines for the types of expenditures which can be reimbursed, leading to the excesses noted above. The Foundation's guidelines for reimbursement of entertainment are too broad and allow MAET employees to be reimbursed for local meals, without restricting meal reimbursement to certain purposes such as fundraising activities. In addition, the MAET Board has not set guidelines for the types of purchases which MAET employees can make from Foundation

Exhibit 21

Foundation for Public Broadcasting in Mississippi, Inc.-- Administrative Costs as a Percent of Total Unrestricted Expenditures

Fiscal Year 1992 and Nine Months of Fiscal Year 1993

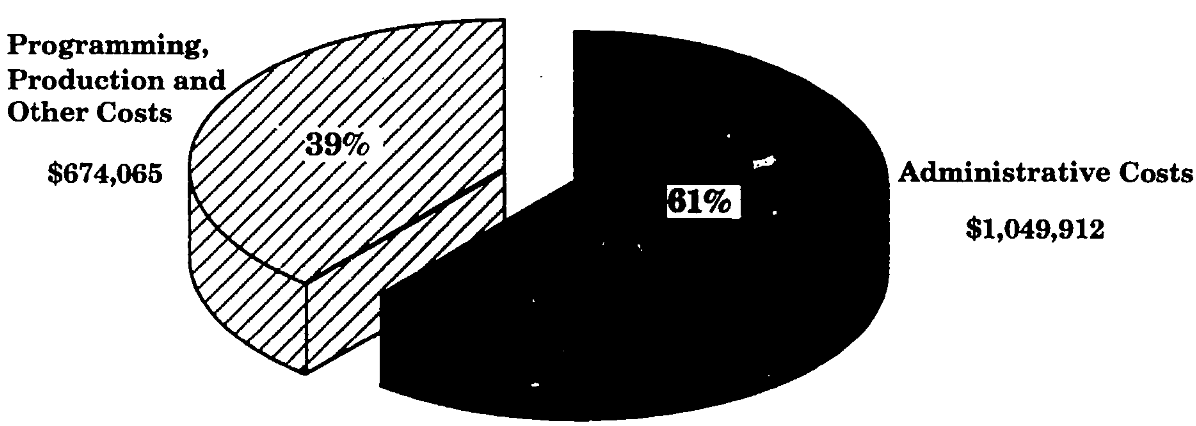


Note: Total unrestricted expenditures were $1,245,369 during the period.
Source: Records of the Foundation for Public Broadcasting in Mississippi, Inc.

Exhibit 22

Foundation for Public Broadcasting in Mississippi, Inc.-- Administrative Costs as a Percent of Total Expenditures

Fiscal Year 1992 and Nine Months of Fiscal Year 1993



Note: Expenditures (Restricted and Unrestricted) totaled $1,723,977.
Source: Records of the Foundation for Publ.c Broadcasting in Mississippi, Inc.

Exhibit 23
Employee Perquisites Paid by the Foundation for Public Broadcasting

	FY 1989	FY 1990	FY 1991	FY 1992	FY 1993	Total
Entertainment						
Local meals for employees						
Submitted by A. J. Jaeger	$107	$2,342	$1,517	$294	$114	$4,374
Submitted by Sarah White		757	596	816	39	2,208
Submitted by others		447	1,379	1,052	10	2,889
Catering for board meetings		11	303	520	1,603	2,438
Staff meeting refreshments and catering		12	112	1,126	506	1,757
Staff parties and receptions	199	1,738	1,773	1,816	42	5,568
Subtotal	$306	$5,307	$5,680	$5,625	$2,314	**$19,233**
Other						
MAET Employee Moving Expenses	3,525	3,377	600	5,243		12,745
MAET recruiting expenses		1,829	54	9,255		11,138
Gifts and flowers		657	901	1,412	968	3,938
T-Shirts for crew members			204			204
Tickets to cultural events and fundraisers						
for A. J. Jaeger	210	685	40			935
for Sarah White			60			60
Perquisites for A. J. Jaeger						
Parking tickets and lock repair		30	20			50
Club memberships			404	200		604
First class upgrade			1,042			1,042
Subtotal	$3,735	$6,578	$3,325	$16,110	$968	**$30,715**
TOTAL	$4,041	$11,885	$9,005	$21,735	$3,282	**$49,948**

SOURCE: Records of the Foundation for Public Broadcasting in Mississippi, Inc.

funds. As a result, MAET management has taken advantage of the availability of Foundation funds for imprudent expenditures.

Purchase of Commodities

The Foundation's incomplete internal control procedures resulted in purchase of at least $3,460 in books and other commodities currently missing or unaccounted for--MAET executive management has frequently purchased commodities with Foundation funds. The former MAET Executive Director often purchased books, many of which were reportedly obtained for research on various projects undertaken by MAET and the Foundation. Other purchases included artwork, videos, microcassette recorders, a clock, and an electric letter opener from the Museum of Modern Art in New York. However, when questioned by PEER, MAET management could not locate $1,934 in books and other commodities purchased by Jaeger from fiscal year 1990 to 1992. General Manager Sarah White also was responsible for the purchase of $547 in books and videos from fiscal year 1990 to 1993 which she cannot locate.

In addition, the former Executive Director escaped accountability for $979 worth of books because Foundation records did not identify the books by title, thus not allowing an inventory search. In many instances, the Executive Director submitted his corporate charge account bill to the MAET General Manager, who also acted as General Manager for the Foundation, for reimbursement of items purchased. In other instances, the Foundation paid the vendor directly or reimbursed Mr. Jaeger. The $979 in invoices showed that bookstore purchases had been made; however, the paperwork included no record of the titles of the books purchased. The purchase requests often noted that the books were related to a particular project, but no documentation existed to confirm this assertion. As a result, PEER could not determine that the books were on location at Foundation or MAET offices and therefore could not hold MAET management accountable for safekeeping of the books.

Of items questioned by PEER, $3,460 in items were missing or unidentifiable. Proper internal control procedures should help prevent assets from being lost or stolen and help ensure that accounting records are accurate and complete. The Foundation lacks procedures for purchase of commodities, including procedures to ensure that purchases are accurately identified. The MAET Board lacks guidelines for identifying the types of items purchased by MAET employees which can be reimbursed with Foundation funds. Neither MAET nor the Foundation has implemented a method to catalog books purchased with MAET or Foundation funds, such as a lending library. As a result, numerous books have been lost or unaccounted for.

MAET's and the Foundation's lack of a method of cataloging books purchased with Foundation or MAET funds and lack of proper purchasing

procedures for commodities resulted in losses to the Foundation totaling at least $2,481. Because $979 in books were not identified in documents at purchase, PEER cannot determine if these books have also been lost.

EdNet Expenditures

The Foundation for Public Broadcasting paid approximately $139,999 in support of EdNet operations from November 1989 to December 2, 1992, without prior approval by the Foundation Board--PEER determined from a review of Foundation for Public Broadcasting records that the Foundation financially supported Mississippi EdNet Institute in the amount of $139,999 from November 1989 to December 1992. EdNet is a not-for-profit corporation organized by four state agencies to develop an Instructional Television Fixed Service system for Mississippi. (See pages 22 and 81 for a detailed explanation of EdNet and its function.)

While the Foundation and EdNet did not document the loan with an agreement, Foundation records show that EdNet has repaid or has received credits for $64,223, but still owed the Foundation $75,792 as of December 31, 1992. Most EdNet expenses paid by the Foundation were for legal, consulting, travel, and miscellaneous services. In addition, the Foundation paid a total of $470 for EdNet Board refreshments on thirteen occasions. Minutes of the Foundation show that the Foundation Board never formally approved these expenditures.

The Foundation Board is responsible for governing the Foundation and is legally vested with the power to approve or disapprove actions with respect to financial matters, as provided for by MISS. CODE ANN. Section 79-11-151 (1972). While Jaeger expended Foundation funds for the benefit of EdNet because other funds were not available, these expenditures made without board approval deprived the Foundation's governing board of its authority to determine the appropriateness of expending funds for the support of EdNet.

MAET Consultants

During FY 1988 through 1992, the MAET Executive Director hired two MAET consultants compensated with $201,636 in Foundation funds without Foundation Board approval and without using written contracts to ensure accountability--Business principles dictate that an agreement to compensate an individual for services rendered or goods produced should be detailed in a written contractual document enforceable in a court of law. The document should specify in detail responsibilities of both parties and expected final results of the agreement. Even though consultant arrangements represented by letters of agreement might be legally binding and enforceable, the possibility exists that they might not be sufficient in scope to ensure complete compliance with the needs of the entity.

MAET entered into two consultant arrangements during fiscal years 1988 through 1992 without formal written agreements. According to Foundation minutes, MAET's Executive Director did not obtain the approval of the Foundation Board prior to the commitment of Foundation funds for these contracts. One of these arrangements, with Chalmers & Company, resulted in $45,981 of Foundation funds being paid to the consultant over a five-year period. MAET Management reported that Chalmers & Company, a management consulting firm out of Austin, Texas, was involved with several projects for MAET. In one project, Chalmers studied the relationship between the boards of MAET, the Foundation for Public Broadcasting, and Mississippians for Educational Broadcasting. Although Chalmers & Company conducted the study and furnished a written document, many of the company's recommendations were never implemented.

Guy Land, a public policy and governmental affairs consultant based in Washington, D.C., received $155,655 in Foundation funds for consulting services over a five-year period. MAET did not enter into a formal written agreement with Mr. Land for his services. According to Foundation documentation, Mr. Land and MAET's Executive Director at the time verbally agreed to the arrangement. MAET provided PEER no documentation of Land's services, nor did MAET management fulfill PEER's request for a list of grants received resulting from Land's services. However, in the course of its review of Foundation expenditures, PEER obtained copies of invoices Land had submitted which show that Land was involved in a variety of projects for MAET.

As discussed earlier, MAET management often utilizes Foundation funds to cover administrative support expenses, including personal services contracts. Without formal, written contracts, MAET and Foundation officials cannot ensure the consultants' complete compliance and, therefore, cannot provide full accountability of the funds to the Foundation's donors.

<u>*Travel*</u>

MAET executive managers did not adhere to the Foundation's standard operating procedures for payment of MAET travel expenditures--MAET managers use Foundation funds to pay administrative travel expenses unrelated to the production of programs. For instance, MAET administrative travel expenses totaled $35,883 during Fiscal Year 1992 and $18,840 in the first nine months of Fiscal Year 1993. These expenditures represented the travel expenses of forty-seven MAET employees, consultants, and board members. From a review of Foundation records during Calendar Year 1988 through Fiscal Year 1993, PEER determined that MAET managers spent Foundation funds for at least $52,581 in travel expenses for MAET executive management during this period, including

$39,364 for MAET's Executive Director and $13,217 for MAET's General Manager.

The Foundation staff established fiscal guidelines on October 10, 1991, in order to provide standards for the expenditure of general Foundation funds, reimbursing MAET employees for necessary and reasonable expenses incurred by them for the benefit of the agency, and for expenses incidental to travel when on agency business. These guidelines state that "an itemized receipt or invoice must be submitted with each request. Generic credit card receipts are not acceptable. The justification section should be completed with a clear, specific and verifiable explanation of the purpose of the request and how it relates to the project."

A review of the Foundation's canceled checks shows that the Foundation did not enforce the above guidelines. PEER found documentation of reimbursements for meals in which a generic credit card receipt was submitted. MAET employees often failed to complete the justification section of Foundation purchase requests.

In addition, neither MAET nor the Foundation have written standards to determine whether MAET funds or Foundation funds will pay for expenses. Documentation shows that MAET utilized Foundation funds to cover travel expenses not allowable under state travel guidelines, specifically for meal expenses above those allowed under the Department of Finance and Administration. Foundation funds paid $190 in "no-show" charges for hotel rooms reserved for the MAET Executive Director which he failed to utilize. Such travel expenditures also covered a $1,042 first-class upgrade in airline reservations for MAET's Executive Director.

A contributing factor to the lack of enforcement of Foundation fiscal guidelines is that the Foundation Board did not require its employees to practice proper oversight of Foundation expenditures. In almost every instance, MAET employees, not Foundation employees, approved reimbursement requests which were paid from Foundation funds. The former MAET Executive Director (also serving as Foundation President) and MAET's General Manager were often the only two personnel to sign approval of reimbursement requests. Instead of requiring the Foundation's Director of Development, a Foundation-paid employee, to sign purchase requests, the fiscal guidelines required MAET's General Manager to authorize payment, although MAET's General Manager had no authority to do so under the Foundation's by-laws.

Without proper oversight by the Foundation's board and director, the Foundation cannot ensure that its funds are utilized in the most efficient manner. Lack of control over expenditures enhances the opportunity for abuse of Foundation funds to cover unnecessary expenses such as first class upgrades and "no-show" charges.

Recommendations

1. Each year the MAET Board should develop a proposal for use of Foundation funds based on agency needs. The MAET Board should formally request funding from the Foundation to pay for these needs. The Foundation should consider the MAET Board's proposal and formally approve a list of funding commitments. MAET management should then apprise its employees of appropriate expenditures which can be submitted to the Foundation for payment during the following year.

2. The Foundation Board should closely scrutinize expenditures from Foundation funds and expand upon current rules for various types of expenditures. The board should determine a maximum amount of expenditures which can be used on support items and should disallow local meals and entertainment not directly related to specific activities such as fundraising. The board should limit, if not eliminate, the amounts spent on gifts, and should be required to approve all gift expenditures.

3. The Foundation should provide a clear written explanation to its members in each solicitation letter of the purposes for which funds will be expended.

4. The Foundation Board should review state purchasing guidelines and adopt comparable rules for expenditure of Foundation funds. If the board chooses to allow expenditures not reimbursable under state guidelines, then the board should make a conscious decision to allow those specific expenditures. Any exceptions to the rules set by the board should be brought before the board for approval before the expense is incurred.

5. The MAET Board should review the Foundation guidelines adopted as provided for in the previous recommendation. The MAET Board should endorse these guidelines or, if necessary, adopt revised guidelines and require MAET employees to follow MAET guidelines when expending Foundation funds.

6. If the Foundation purchases gifts, the purchase request form should always identify those purchases as gifts and name the recipient of the gift.

7. MAET and Foundation employees should organize and account for an office fund made up of monthly contributions by staff members to pay for gifts for staff members, rather than using Foundation funds.

8. The Foundation Board should set specific guidelines for the purchase of commodities such as books and require that the Foundation's president and staff follow these procedures.

9. MAET and the Foundation should create a library to house books purchased with both MAET and Foundation funds. Books on loan should be checked out by the person using the books. This will help ensure that books are held in a central location for use by the Executive Director and staff, improve control over safekeeping for the books and dissuade possible purchase of books for personal use.

10. The Foundation should also place video and other tapes purchased into MAET's video tape library or develop its own tracking system for the tapes.

11. The Foundation should review and approve all expenditures made in the future for the support of MAET or some related entity prior to funds being made available to that entity.

12. The Foundation Board should enforce procedures approved at its May 18, 1993, meeting which require that all requests for personal services contracts to be funded by the Foundation be approved in advance by the Foundation. The new procedures prohibit expenditures for personal services contracts without a current Foundation contract fully executed prior to the commencement of services.

13. The Foundation Board should enforce procedures it approved on May 18, 1993, which state:

    The Foundation Director of Development is responsible for final approval of all Foundation Purchase Requests, except as otherwise directed by the Foundation Board of Directors. MAET employees are not authorized to agree, or commit, to the expenditure of Foundation funds without the written approval of the Foundation.

Supervision and Control of MAET's Relationship with EdNet

- ***The MAET Board has not effectively supervised and controlled MAET's relationship with and expenditures for EdNet (a joint venture between educational agencies), resulting in an agreement with EdNet which violates state law.***

MAET, IHL, the State Board of Education and the State Board for Community and Junior Colleges formed EdNet as a partnership of state educational agencies to develop an Instructional Television Fixed Service system in the state. In reviewing MAET's relationship to EdNet, PEER determined that the MAET Board had not effectively supervised and controlled MAET's relationship with and expenditures for EdNet. As a result, MAET management incurred some expenditures which should

have been paid by other EdNet agencies. MAET also executed an agreement with EdNet which violates state law.

-- *During Fiscal Year 1991, MAET executive managers utilized MAET funds for EdNet expenditures, rather than requiring all educational agencies participating in EdNet to bear their proportionate share of the expenses.*

The EdNet Board consists of one representative each of:

- the Institutions of Higher Learning;
- the State Board of Education;
- the State Board for Community and Junior Colleges;
- the Mississippi Authority for Educational Television;
- the Governor or designee;
- the Attorney General or designee; and,
- a teacher appointed jointly by the Governor and the Attorney General.

The latter three members joined as a result of amendments to the EdNet charter effected in February 1992.

When EdNet came into existence in July 1990 it had no assets. Any costs for its operations had to be paid by other parties such as MAET or the Foundation for Public Broadcasting. During Fiscal Year 1991 MAET expended $26,613 for legal and consulting services to develop a request for proposals to operate EdNet. However, PEER determined that this cost should have been distributed among the four educational member agencies of EdNet. As a result, MAET paid $19,960 in costs which should have been financed by the other EdNet agencies.

MAET expended $18,328 for legal services associated with the development of a request for proposals which EdNet would use to solicit possible operators of the wireless cable system. These expenditures were made in August 1990 and December 1990. MAET also paid a consultant, Albert Tedesco, $4,940 and $3,345 for consulting services associated with the development of the request for proposals. While the State Board of Education and the Institutions of Higher Learning paid costs associated with obtaining licenses, they did not pay any share of the EdNet-related costs mentioned above. Records PEER obtained from the State Board for Community and Junior Colleges show that the agency made no ITFS-related expenditures except for per diem and travel for its representative on

the EdNet board. Thus, the agencies participating with MAET in EdNet did not share costs which were intended to benefit all participants in EdNet.

MISS. CODE ANN. Section 37-63-9 concerning MAET provides, in part, with specific reference to ITFS, that:

> *(2) The authority, and any other state agency or board licensed by the Federal Communications Commission to provide ITFS educational television, are authorized and empowered to provide access to video learning resources for all Mississippi public schools through the development of multi-channel interactive video systems (ITFS) for the public schools which shall be able to interact with other school districts in the state. In order to establish the ITFS system without expenditure of significant state funds, the authority, and any such other agency or board licensee with the approval of the authority, are authorized and empowered to enter such contracts as may be necessary, including contracts with any private educational institution or private nonprofit educational organization in regard to the construction, purchase, lease, or lease-purchase of facilities and equipment, employment of personnel, and the operation and management of said ITFS system for the purpose of providing ITFS educational television services to educational institutions and interested citizens in the state. The authority shall provide that all public schools are equipped to utilize the ITFS system by no later than July 1, 1998.*

Thus, all entities licensed to operate ITFS may have contracted with a not-for-profit entity known as EdNet in the hope of placing ITFS on the air in Mississippi. Further, their arrangement with EdNet allows each to receive "excess funds" of EdNet every October. (See finding below.) The law and the contract contemplate that these parties are equal stakeholders in the success of EdNet. Yet some parties have paid more to make EdNet operational than others.

According to Sarah White, Interim Executive Director, MAET paid certain costs because MAET has members on the EdNet Board and the Executive Director serves as president of the board. She noted that because of these appointments, MAET was to play the lead role in insuring that EdNet became operational.

Nevertheless, PEER determined that MAET's payment of developmental costs benefiting all EdNet agencies resulted in $19,960 of unnecessary costs paid from its own funds.

-- *The inter-agency agreement between EdNet and the four state educational agencies violates MISS. CODE ANN. Section 79-11-293 by allowing distributions of revenues by EdNet, a not-for-profit corporation.*

Also, provisions in the amended EdNet charter allowing for distributions to the offices of the Governor and Attorney General also violate this section.

The parties to EdNet entered into an agreement in August 1990 which specified duties and responsibilities with respect to the operation of the ITFS system. One provision of the agreement, Section 5, relates to the distribution of funds acquired by EdNet. This provision states in full:

> *5 Excess Funds. The parties agree that on or by October 30 of each year, EdNet will make appropriate disbursements of any accumulated fund balances that are not necessary for the reasonable and prudent operation of the corporation as approved by the Board.*

Because EdNet has had no "excess funds" in its three-year history, no distributions have been made. Paragraph 15 of the by-laws, amended in February 1992, provides that if excess funds are distributed in accordance with Section 5 of the ITFS agreement discussed above, the Governor and the Attorney General shall be entitled jointly and equally to a 1/5 share of the excess funds.

However, MISS. CODE ANN. Section 79-11-293 relative to non-profit corporations provides:

> *(1) Except as authorized under subsections (2) and (3) of this section, a corporation shall not make any distributions.*
>
> *2) A corporation may purchase its memberships if after the purchase is completed:*
>
> *(a) The corporation would be able to pay its debts as they became due in the usual course of its activities, and*
>
> *(b) The corporation's total assets would at least equal the sum of its total liabilities.*
>
> *(3) A corporation may make distributions upon dissolution in accordance with the provisions of Sections 79-11-101 et seq. relating to dissolution.*

A distribution is defined as a payment of income or profit to members, directors, or officers (see MISS. CODE ANN. Section 791-11-127).

The policy behind this provision is to prohibit directors from using not-for-profit corporations as a means of deriving benefits for themselves and in the process perhaps circumventing the purpose of the not-for-profit corporation.

While no distribution is specifically authorized under the agreement to benefit any single person individually, it should be noted that members of IHL, the State Board of Education, the State Board for Community and Junior Colleges, and the Mississippi Authority for Educational Television, according to Section 1 of the EdNet by-laws, serve in their official capacities as members of their respective boards and as such represent their respective boards. Any distribution to these boards, while possibly legal, could violate the spirit and purpose of Section 79-11-293 if directors voted to allow their respective boards to receive sums of money from EdNet each October as provided for under the agreement. A distribution to the offices of the Governor or the Attorney General would pose a clearer possibility of a violation of this provision as they are directors and would under the amended by-laws be eligible to receive a distribution of "excess funds."

Member entities desire some share of the possible earnings of EdNet since they hold ITFS licenses, valuable assets which are necessary to the effective operation of EdNet. However, any future distribution of funds could injure EdNet's capacity to meet unforeseen expenses. In PEER's opinion, any genuine excess should be distributed only by the Legislature through an appropriation.

Recommendations

1. In the future, should the participating agencies have to expend funds for EdNet, they should formulate an allocation method so that all licensees pay their share in covering costs of EdNet.

2. EdNet and its four original members should amend their operating agreement so as to allow the licensee agencies to receive a fee for the use of their licenses. The by-laws should be amended so as to delete any provision allowing for a distribution of "excess funds" to the offices of the Governor or the Attorney General.

3. If EdNet operations result in cumulative excess income to the partnership, then this income should be deposited into a special treasury account fund for appropriation by the Legislature.

Foundation Compensation to the Executive Director

The focus of PEER's review was to determine if MAET and its employees had properly managed its expenditures and those of the Foundation formed on its behalf. During the course of the review, PEER discovered that the former Executive Director had violated state law by working for the Foundation during MAET work time. As outlined below, the situation resulted in $3,207.89 in questioned state costs.

A. J. Jaeger, MAET's former Executive Director, violated MISS. CODE ANN. Section 25-1-98 by working on Foundation-related activities during MAET working hours.

In its March 9, 1993, report, the PEER Committee noted that the Foundation for Public Broadcasting in Mississippi, on July 9, 1991, authorized Jaeger to receive $17,000 per year in equal monthly installments as compensation for his services as a Foundation director and president. Foundation officials told PEER that it was the Foundation's desire to compensate Jaeger for his time-consuming Foundation responsibilities, such as supervising Foundation activities, making numerous public relations and fund-raising appearances, chairing meetings of the directors and memberships of related support groups and foundations, assisting in planning and executing fund-raising events, writing personal letters and making personal calls soliciting contributions. (Even though the Foundation considered Jaeger to be an independent contractor, it did not execute a contract with him to ensure timely and complete provision of his services in return for the compensation amount.)

Since authorizing the compensation arrangement, the Foundation has made three payments to Jaeger totaling $31,166.67: $3,500 on July 22, 1992; $13,500 on April 21, 1993 (fourteen days prior to Jaeger's resignation as MAET Executive Director); and $14,166.67 on May 6, 1993 (the day of Jaeger's resignation).

Prior to authorizing the compensation amount, the Foundation directors requested and received an official Attorney General's opinion regarding the proposed compensation, which stated the following.

> *In the opinion of this Office, there is no statutory prohibition for the Executive Director of the Authority to receive compensation from the Foundation under the circumstances you describe in your letter. Although Section 25-3-33, Mississippi Code of 1972, does prohibit the payment of any additional compensation whatsoever to certain enumerated state officers and employees for the performance of their official duties, it is apparent that the tasks you have described would not fall within the scope of such duties and, thus, not within the prohibition of the section.*
>
> *It should be noted that the performance of the job duties on behalf of the Foundation must not occur during any time periods for which the individual is being compensated by the Authority. A final consideration which this Office would advance to the Authority and the individual would be to assure that no statutory conflicts of interest arise in the performance of the two separate jobs.*

For the period July 12, 1991, through March 15, 1993, PEER identified at least forty-four Foundation-related public relations events and/or board meetings in which Jaeger participated during the normal 8 a.m. to 5 p.m. workday. (See Exhibit 24, page 79.) According to MAET's personnel records, Jaeger did not take personal leave to compensate for portions of MAET workdays used to perform Foundation-related duties. Therefore, Jaeger claimed dual use of his workdays and received compensation from both the Foundation and MAET for days in which the forty-four events occurred. Jaeger received $3,207.89 as compensation from MAET for 113 MAET work hours spent during forty-four workdays for performing Foundation-related duties. (Because MAET does not maintain detailed work activity records for its Executive Director, PEER could not estimate the amount of time spent by Jaeger during workdays on other Foundation-related activities, such as making telephone calls and writing letters. Therefore, the actual amount of MAET work time misused by Jaeger and the amount of compensation received by Jaeger for such time could be significantly higher.)

Jaeger's dual use of MAET workday time violates MISS. CODE ANN. Section 25-1-98 (1972), which states:

> *A workday for a state employee in a full-time employment position shall be eight (8) hours in duration at a minimum exclusive of time off for meals. The appointing authority shall develop work schedules which ensure that each full-time employee works a full workday and shall provide the state auditor with a copy of the regular work schedule of the appointing authority.*

Jaeger's dual use of time was also directly contrary to the July 3, 1991, Attorney General's opinion that Foundation-related activities must not be performed by Jaeger during any periods for which he was compensated by MAET, i.e., a routine 8 a.m. to 5 p.m. workday.

Jaeger's violation of MISS. CODE ANN. Section 25-1-98 and lack of adherence to the 1991 Attorney General's opinion occurred primarily because neither the Foundation nor MAET established accountability controls to govern Jaeger's involvement with Foundation activities. In approving the compensation arrangement on July 9, 1991, the Foundation board established the compensation as an automatic monthly amount with no requirements on Jaeger's part to document or verify his services on behalf of the Foundation. As stated in other findings contained in this report, the MAET board has no controls in place to ensure that its members are informed in a timely and scheduled manner regarding the day-to-day operations of the agency and its employees.

Exhibit 24

Analysis of MAET Work Time Spent by A. J. Jaeger on Foundation Activities

EVENT	DATE	WORK TIME USED
Tupelo Kiwanis Club	7/12/91	390 minutes
MEB Board Meeting	7/18/91	45 minutes
Greenville Advertising Club	8/2/91	270 minutes
Laurel Lions Club	8/5/91	180 minutes
Brookhaven Kiwanis Club	8/14/91	120 minutes
MEB Board Meeting	8/15/91	50 minutes
Greenville Rotary Club	8/22/91	240 minutes
Leland Rotary Club	8/23/91	240 minutes
Hattiesburg Optimist Club	8/26/91	180 minutes
Magnolia Lions Club	8/29/91	180 minutes
Hattiesburg Civitan Club	9/13/91	240 minutes
Hattiesburg Lions Club	9/13/91	90 minutes
Hattiesburg Kiwanis Club	9/23/91	180 minutes
Natchez Kiwanis Club	9/26/91	210 minutes
Several Yazoo City clubs	9/27/91	90 minutes
Oxford Rotary Club	10/1/91	360 minutes
Belzoni Rotary Club	10/2/91	150 minutes
Greenville Kiwanis Club	10/8/91	240 minutes
Drew Culture Club	10/16/91	255 minutes
MEB Board Meeting	10/17/91	30 minutes
Vicksburg Lions Club	10/30/91	120 minutes
MEB Board Meeting	11/21/91	40 minutes
Delta State University	12/4/91	240 minutes
Foundation Board Meeting	12/10/91	115 minutes
Hattiesburg	1/8/92	240 minutes
MEB Board Meeting	1/16/92	35 minutes
Starkville Women's Club	1/28/92	330 minutes
Waynesboro	2/11/92	210 minutes
MEB Board Meeting	2/20/92	50 minutes
Hattiesburg English Teachers	2/24/92	240 minutes
MEB Board Meeting	5/21/92	40 minutes
Foundation Board Meeting	7/14/92	130 minutes
MEB Board Meeting	8/20/92	50 minutes
Hattiesburg	9/25/92	240 minutes
Hattiesburg Rotary Club	9/29/92	180 minutes
Greenville Kiwanis Club	10/6/92	240 minutes
MEB Board Meeting	10/15/92	50 minutes
Foundation Board Meeting	11/16/92	85 minutes
MEB Board Meeting	11/19/92	65 minutes
MEB Board Meeting	1/22/93	55 minutes
Foundation Board Meeting	1/27/93	110 minutes
MEB Board Meeting	2/18/93	35 minutes
Foundation Board Meeting	3/5/93	130 minutes
MEB Board Meeting	3/15/93	10 minutes

Total MAET Work Time Used for Foundation: 6780 minutes / 113 hours

Recommendations

1. The MAET Board should establish accountability controls to insure that future directors or other employees do not receive compensation from private sources while working on state time.

2. The State Auditor should review the $3,207.89 in compensation paid to A. J. Jaeger as an MAET employee while he was performing Foundation-related duties during the MAET workday. If the State Auditor determines that it is in the best interest of the state, he should make demand, and if necessary bring suit, against A. J. Jaeger for the $3,207.89.

Appendix A

History of Mississippi EdNet Institute, Inc.

On July 24, 1990, MAET, IHL, the State Board for Community and Junior Colleges and the State Board of Education formed a partnership to create Mississippi EdNet Institute, Inc. (EdNet), a not-for-profit corporation, to oversee the development of an ITFS (Instructional Television Fixed Service) system.

In order to develop and operate an ITFS system with minimal costs to the state, EdNet began seeking interested operators who would be willing to defray construction, equipment, and operating costs of the ITFS system in exchange for a lease on the excess capacity of the twenty channels allocated to the state. In furtherance of this goal, EdNet commenced the development of a Request For Proposals (RFP) which would provide EdNet and potential operators with guidance on the duties and responsibilities of each party with respect to the operations of the ITFS system.

The EdNet board approved an RFP on November 20, 1990. In response to this RFP, two proposers made presentations to the EdNet board. These proposers were A+TV and Wireless Cable Mississippi, Inc. (Wireless). Presentations for the two groups were set for March 13, 1991. EdNet selected two consultants to assist in the evaluation of the proposals--Bob Gehman, a consulting engineer for MAET, and Larry Dickerson, Deputy Director, Wisconsin Educational Television.

By July 1991, certain difficulties arose related to the proposal of A+TV. Two of the A+TV principals were indicted on drug trafficking charges. A new group made up of other principals in A+TV, E & E Broadcasting, sought to be recognized as A+TV's successor in the competition for the excess capacity contract with EdNet. This request was rejected by the board.

A member of the EdNet board suggested that representatives of E & E Broadcasting and Wireless discuss with the board such matters as minority participation in ownership and "any other matters they might wish to discuss." This motion carried.

By November 7, 1991, the EdNet Board had begun discussions with a group called MAX Communications. MAX is made up of former principals in A+TV and Wireless. This joint organization wished to acquire the rights to operate the ITFS system.

The EdNet Board contracted with MAX to operate the ITFS system in Mississippi on November 22, 1991. MAX paid EdNet $100,000 under their agreement. The funds were used to pay certain EdNet expenses and to retire a portion of their indebtedness to the Foundation. Under the terms of the agreement, MAX was to pay EdNet an additional $150,000 by July 1992. As this payment was never made, at the November 10, 1992, EdNet meeting, EdNet chairman Michael Allred moved that MAX be declared in default. The motion passed unanimously.

The EdNet board continued to solicit proposals to operate the ITFS system in Mississippi. On June 28, 1993, the EdNet board selected the TruVision Wireless Communications of Jackson to build the wireless cable network. As of July 18, 1993, three of the four state agency boards participating in EdNet had approved the contract between TruVision and EdNet.

Appendix B

Proposed Legislation Regarding Appointment of Members to the Board of the Mississippi Authority for Educational Television

Mississippi Legislature Regular Session, 1994

BY:

BILL

AN ACT TO AMEND SECTION 37-63-3, MISSISSIPPI CODE OF 1972; TO REQUIRE THAT THE AUTHORITY FOR EDUCATIONAL TELEVISION STAGGER THE TERMS OF THE FOUR MEMBERS APPOINTED BY THE GOVERNOR; TO AMEND SECTION 37-63-5, MISSISSIPPI CODE OF 1972, TO REQUIRE THAT THE AUTHORITY FOR EDUCATIONAL TELEVISION MEET AT LEAST ONCE EVERY MONTH; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

Section 1. Section 37-63-3, Mississippi Code of 1972, is amended as follows:

§ 37-63-3. ~~**Members of authority for educational television; terms.**~~

The Authority for Educational Television shall consist of the State Superintendent of Public Education and six (6) members appointed, with the advice and consent of the Senate. The Governor shall appoint four (4) members, one (1) of whom shall be actively engaged as a teacher or principal in a secondary school system in the State of Mississippi and one (1) of whom shall be actively engaged as a teacher or principal in an elementary school system in the State of Mississippi. The State Board for Community and Junior Colleges shall appoint one (1) member, and the Board of Trustees of the State Institutions of Higher Learning shall appoint one (1) member. The original appointments shall have been made by November 29, 1969, to expire on February 1, 1972. Thereafter, all appointments shall be made for a term of four (4) years from and after February 1, 1972, such new appointments to be made not more than sixty (60) days from the expiration of any appointee's term.

SOURCES: Codes, 1942, § 8946-102; Laws, 1969, Ex Sess, ch. 31, § 2; 1986, ch. 434, § 14, eff from and after July 1, 1986 (became law on April 4, 1986, without Governor's signature).

119

Beginning July 1, 1994, the four members herein described who are appointed by the Governor shall be appointed as follows. The appointee actively engaged as a school teacher or principal in a secondary school shall be appointed for an initial term of one (1) year. The member actively engaged as a school teacher or principal in an elementary school shall be appointed for an initial term of two (2) years, the remaining two gubernatorial appointees shall be appointed for initial terms of three (3) and four (4) years, with the Governor specifically designating which member shall be appointed for three years and which shall be appointed for four years. After the expiration of the initial terms all members shall serve for terms of four (4) years.

Section 2. Section 37-63-5, Mississippi Code of 1972, is amended as follows:

§ 37–63–5. Officers of authority for educational television; meetings; compensation.

The authority for educational television shall elect a chairman, vice-chairman and such other officers it deems necessary. month

The authority shall meet at least once each ~~quarter~~. Special meetings may be called by the chairman, vice-chairman or the executive director. Four (4) members of the authority shall constitute a quorum.

Authority members who are not employed by the state shall receive per diem and actual and necessary expenses for attending meetings as provided by general law for public officers and employees. Elementary and secondary school teachers and/or elementary and secondary principals shall not be considered to be state employees for the purposes of this section.

SOURCES: Codes, 1942, § 8946-103; Laws, 1969, Ex Sess, ch. 31, § 3; 1980, ch. 560, § 14, eff from and after passage (approved May 26, 1980).

Section 3. This act shall take effect and be in force from and after July 1, 1994.

MISSISSIPPI
STATE BOARD FOR COMMUNITY AND JUNIOR COLLEGES
3825 Ridgewood Road • Jackson, Mississippi 39211 • (601) 982-6518

July 22, 1993

RECEIVED
JUL 26 1993
PEER COMMITTEE

Ms. Katherine Stark
PEER Committee
222 N. President Street
Jackson, MS 39201

Dear Ms. Stark:

On behalf of the Mississippi Authority for Education Television, I wish to express appreciation for the opportunity to review and respond to the PEER report. I asked Sarah White and Bill Pharr to review this report for the purpose of offering responses which might more clearly establish the factual basis for conclusions reached by PEER. I am attaching a letter from Bill Pharr and a list of responses from the Authority which I believe will help to clarify certain matters and will also demonstrate the commitment the Authority has in responding positively to constructive suggestions.

Because of several circumstances the current membership of MAETV lacks sufficient tenure to have gained information and knowledge essential to effective boardmanship. Since I am the oldest member in terms of service and have been on the Board for only two and one-half years, many of the problems referred to in to PEER report were rooted in practices which predated the present Board's service. It is the impression of the MAETV membership that this report be used as an opportunity to construct answers in a manner that will serve the best interest of our state. As we go through this process I am hopeful we can call on you for additional feedback and direction.

Should you need information or should you need clarification on any of the points provided on the enclosures, please let me know.

Sincerely,

Olon E. Ray

OER:sl

Enclosures

cc: MAETV Members

PEER Report Response

Comments on the full report:

1. Pages 40 and 50, Equipment Policies and Procedures were presented at the February 9, 1993 meeting of the MAET Board, and were made effective January 1, 1993 according to the February 9 minutes and Maggie Gibson, Director of Business Services.

2. Page 53, Our FY94 Budget Plan establishes a capital equipment line item under the control of our Equipment Committee which will perform as a long-range capital equipment planning group as suggested herein.

3. Page 56, The Foundation did not have the authority to require the MAET employee to retire, and no demands by MAET were made for this employee to retire. She was given the option of staying on with MAET and working in Personnel, as Personnel Officer I, or of resigning from MAET and becoming a fulltime Foundation employee.

4. Regarding the lending library suggested, MAET's FY94 Budget Plan, adopted by the MAET Board July 17, includes a multimedia library which will catalogue and track all multimedia resources to avoid misplacement of resources.

5. Regarding the consultant Chalmers & Company referenced on pages 68 and 69, Mr. Chalmers also conducted two, two-day management workshops in 1990 and 1991 which resulted in a written report and recommendations which were implemented to the degree allowed.

6. Regarding consultant Guy Land referred to on page 69, Mr. Land was successful in securing several grants for ETV:

Mississippi Humanities Council for Mississippi history project;
Bicentennial Commission for the Bill of Rights;
National Endowment for the Humanities for Richard Wright project;
National Endowment for the Arts for Richard Wright.
and assisted/consulted/reviewed/advised on several others:
Bill of Rights, History, Health series, John Stennis: A Senator's Senator.

7. References in the report to MAET management do not acknowledge the management style of the Executive Director which was to order and direct managers to do his will, and to reserve all decisions and the right to change his mind on those decisions without notice or consultation or consideration of the consequences of changing his decisions.

8. Beginning in June 1993, MAET Board has received a complete list of contractual agreements that the agency is a part of. At July's meeting this list was updated for the Board. It will be a standard part of our agenda from this point on. Additionally, a policy will be adopted to determine MAET's involvement and prior approval of contracts.

Regarding the report's recommendations as listed in the Executive Summary:

Appointment of MAET Board Members

It should be noted that MAET Board members have discussed the Board's structure and on July 16 and 17, directed staff to begin research and work on organizational Bylaws. Additionally, it should be noted that the MAET Board has met monthly since May 1993.

Strategic Planning

It should be noted the MAET staff and management have developed a draft mission statement and will continue the process of writing it and developing a strategic plan throughout FY94. The MAET Board on Saturday, July 17, authorized the MAET FY94 Budget Plan which includes funds earmarked for the Mission Statement and Long Range Planning Process as prescribed herein.

Additionally a year end report and enhanced accountability report is planned for completion by January 1994 to provide the legislature, management and staff with a clear understanding of the agency's performance.

Budgeting Procedures

The total expenditures by Division including Personnel, and by funding source, will be provided to the Board at the August 3 Board meeting. The records held by the business office do not easily provide this information, and custom of the agency has been to report salaries separately to the board.

The MAET Board will receive an analysis MAET's budgets and expenditures by division and source over a period of several years in order for the Board to discern trends in funding by division. This analysis will be provided by August 3's board meeting or the September meeting date if August 3 is not possible.

The MAET Board at its July 16 and 17 retreat reviewed and analyzed state law regarding MAET, including enabling legislation. At its August 3 Board Meeting, MAET will review appropriations bills specifying legislative intent for operation and funding of the agency.

The MAET Board will receive a comprehensive report on the broadcast schedule, including instructional programs offered to schools over the last several years at its August 3 board meeting. Also, beginning at the July 16 and 17 retreat, and continuing at the August 3 and future board meetings, MAET Board will receive reports from Division Directors about the goals, objectives and functions of each division of the agency.

The Production Division has provided to MAET Board its FY94 plan for production of programming. The Production and Programming Divisions will provide the Board with a report on division expenditures and the products being obtained for the Mississippi audience.

MAET Board will receive a comprehensive in-kind services report regarding personnel and other agency resources expended in production projects. This will include a special report at the August or September board meeting, as well as a special monthly report to be included in the Board meetings from now on.

MAET Management will report project budgets to the Boards quarterly. MAET staff is working on a list of policies to cover a variety of agency systems and procedures. See the attached list of policies (Attachment A)

which are to be submitted to the MAET Board for adoption by the end of the first quarter of FY94.

MAET staff will draft a policy on expenditure of funds for production projects especially for local meals and entertainment for MAET employees. Such policy will be submitted to the board on or before September 30, 1993.

MAET staff will continue to refine the agency's budgeting system based on cost accounting principles and incorporate its use into every division to properly account for and reflect the expenditure of personnel funds.

The MAET Production staff is developing a comprehensive production process for review and approval by the Board in this quarter of the fiscal year, which will include policies on how programs are selected for funding, etc. This process will include multi-year planning, budgeting and formal reporting of budget versus actual expenditures.

Consultant Services

MAET staff will present to MAET Board, on or before September 30, 1993, a comprehensive policy on contractual services including procedures for needs assessment, board approvals, contract monitoring and evaluating. Also, MAET proposes to return the primary oversight of contractual services contracts to the Personnel Division. This oversight was moved to Business Services in 1986 or 1987 by Mary Ann Garrity, then Deputy Director.

Equipment and Construction Planning

The FY94 Budget Plan for MAET provides officially for the Equipment Committee to continue expending funds for agency needs as well as to evolve into the agency's equipment long-range planning group. The outcome of this year's work will be a capital equipment replacement plan and associated list of costs.

Inventory Control

As listed above MAET staff adopted Equipment Procedures in January 1993, which were reviewed by the MAET Board at their February 9, 1993 Board meeting. In this first quarter of FY94, MAET will add additional policies that expand the responsibilities of the property officer.

Tape Dubbing

A policy on tape duplication will be submitted to MAET Board during the first quarter of this fiscal year.

Agency and Foundation Relationship

MAET and Foundation staff will work on a contractual arrangement between the organizations which include the items listed.

MAET FY94 budget allows for a direct grant of FPB to MAET for agency expenditure of funds, based on identified needs of the agency in the FY94 Budget Plan.

Use of Foundation Funds

MAET Board will receive a copy of the FPB guidelines and review for endorsement or for direction to MAET staff to follow MAET procedures under all scenarios.

MAET directors will consider forming an internal office fund for staff members gifts.

MAET has set-aside FY94 budget funds to create a multi-media library to house books, audio and videocassettes, and other research media to be checked in at purchase and available to staff as resources on a continuing basis.

Agency Relationship with EdNet

MAET Board has directed MAET staff to formulate a working committee to draft an EdNet strategic plan which would include operational plans as well as plans for future expenditure of state funds. Issues such as fees for use of licenses and amendments to bylaws regarding excess funds disbursed to the offices of the Governor or the Attorney General will be brought before the EdNet board for consideration at its next meeting.

EdNet board will also be asked to review and discuss the idea of a special Treasury account to hold its cumulative income.

MAET Board has implemented a procedure in which the Executive Director's time sheet, leave forms and out-of-state travel requests are authorized by the MAET Board Chairman. This procedure coupled with a brief written weekly report by the MAET Executive Director to the MAET Board has been implemented in order to exercise greater accountability and control in this area.

(Attachment A)

Executive Summary
Proposed Policies, Procedures and Practices
to be developed and recommended to the MAET Board
in the first quarter of FY94

1. Tower space lease policy and fee schedule

2. Criteria for and process of programming selection for radio and television networks

3. Political Programming Policy

4. Flag Programming Policy

5. Criteria and process for selection of programming to be produced for television and radio networks

6. Contractual Services Oversight System: needs assessment, oversight, & control systems

7. Board approvals and authorizations level/threshold for effective stewardship delegation

8. Insurance rider policy

9. Special procedures or policies for handling unique needs for production spending flexibility

10. Policy for including direct cost fee on grant applications

11. Access levels and rules for security and computer system

12. Rules for screen credits, copyright and broadcast rights monitoring for programs produced and broadcast by the networks

13. Reinstatement and/or enhancement of procedures for technical evaluation of programs produced

14. Project and division cost accounting procedures for comparison of actual expenditures to budget in in-kind and out-of-pocket items

15. Procedures for monitoring major grant expenditures and work progress

16. Internal control accounting/systems for that

17. Grievance Procedures updated and enhanced

18. Policy on accepting contributions

Foundation for Public Broadcasting in Mississippi, Inc.
South Central Bell, Founder

Post Office Box 4691
Jackson, MS 39296
601-982-6540

July 22, 1993

Mr. John W. Turcotte, Executive Director
Joint Legislative Committee on Performance
Evaluation and Expenditure Review
222 North President Street
Jackson, MS 39201

Dear Mr. Turcotte:

The Foundation for Public Broadcasting in Mississippi, Inc. (Foundation) acknowledges the thoroughness of the PEER Committee's expenditure review dated July 20, 1993. The findings and recommendations related to the Foundation offer helpful guidelines for the Foundation to consider in further defining its relationship with MAET.

The Foundation has already taken, or is in the process of taking, action with regard to many of the matters addressed by PEER. As PEER acknowledges, "the Foundation board has taken steps to establish an arms-length relationship between MAET and the Foundation." It is important to note, however, that because the Foundation's sole reason for existence is to support the mission of MAET, there will always be a necessity for a very close working relationship between the two organizations' boards and staff.

Additional steps will be taken, as necessary, to further define and formalize the relationship between the two entities. For example, plans are already being formulated to develop "a contractual agreement outlining the working relationship between the two entities." In addition, the Foundation board has:

- -adopted new fiscal guidelines to control the expenditure process;
- -revised bylaws to strengthen the Foundation's organizational structure and to enhance accountability of officers and control by the board of directors;
- -eliminated control by MAET employees of Foundation management and financial responsibilities;

-discontinued the use of MAET personnel on the Foundation staff; and,
-provided new administrative leadership for the Foundation.

While appreciating PEER's recommendations, the Foundation would like to address the following finding specifically:

> *$1,049,912, or 84% of unrestricted Foundation funds, [went] for administration of MAET and the Foundation during FY 1992 and nine months of fiscal year 1993, including $254,216 for the MAET Executive Office.*

The Foundation takes exception to the classification of several categories of expenditures as "administration" when those categories should be properly classified in the category of "programs" or "program services." The Foundation believes that classifying such expenditures (including, but not limited to, publication and distribution of the program guide and support for public radio) as "administration" rather than "program services" somewhat distorts the total picture of expenditure allocation.

As noted, the Foundation board is currently in the process of addressing all relevant issues related to the proper expenditure of Foundation funds, the most workable relationship between MAET and the Foundation, and the most effective means of discharging its purposes as stated in the original charter:

> "[T]o acquire and administer funds and property, which after payment of necessary expenses shall be devoted exclusively to educational and public broadcasting, public telecommunications in general, and the aims and objectives of the Mississippi Authority for Educational Television in providing educational and public broadcasting to the citizens of the State of Mississippi."

To accomplish those purposes, the Foundation is committed to exercising responsible stewardship of all contributions and funding received from individuals and the business community. The assistance provided through PEER's recommendations will be a factor in further refining the role played by the Foundation in support of MAET.

Sincerely,

Bill Pharr
Director of Development

PEER Staff

Director

John W. Turcotte
Janet Moore, Administrative Assistant

Administrative Division

Steve Miller, General Counsel and Controller

Betty Heggy
Ann Hutcherson
Mary McNeill

Planning and Support Division

Max Arinder, Chief Analyst

Sam Dawkins
Patty Hassinger
Larry Landrum
Kathleen Sullivan
Linda Triplett
Ava Welborn

Operations Division

James Barber, Chief Analyst

Ted Booth
Barbara Hamilton
Susan Harris
Wayne Hegwood
Kevin Humphreys
Kelly Lockhart
Helen McFall
Joyce McCants
Danny Miller
Katherine Stark
Larry Whiting